





THE

UNREPEALED GENERAL ACTS

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LEGISLATIVE DEPARTMENT

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THE  
UNREPEALED GENERAL ACTS  
OF THE  
GOVERNOR GENERAL IN COUNCIL,  
WITH  
CHRONOLOGICAL TABLE AND NOTES

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From 1898 to 1909, both inclusive

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## PREFACE.

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THIS, the fourth volume of the fifth edition of the Unrepealed General Acts, has been compiled on the same lines as the three preceding volumes and contains the Acts passed during the years 1898 to 1909, except the Code of Criminal Procedure, 1898, and the Code of Civil Procedure, 1908, which have been published separately.

The Acts included in this volume are printed as modified up to the 31st December, 1927.

A. L. BANERJEE,

*Assistant Secretary, Legislative Department,  
Government of India.*

NEW DELHI ;

*The 15th December, 1928.*



## LIST OF ABBREVIATIONS USED.

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<b>Aj. Code . . .</b>	<b>For Ajmere Code.</b>
<b>Bal. Code . . .</b>	<b>„ Baluchistan Code.</b>
<b>Ben. Code . . .</b>	<b>„ Bengal Code.</b>
<b>Bom. Code . . .</b>	<b>„ Bombay Code.</b>
<b>Bur. Code . . .</b>	<b>„ Burma Code.</b>
<b>C. P. Code . . .</b>	<b>„ Central Provinces Code.</b>
<b>Mad. Code . . .</b>	<b>„ Madras Code.</b>
<b>P. and N. W. Code . . .</b>	<b>„ Punjab and North-West Code.</b>
<b>U. P. Code . . .</b>	<b>„ United Provinces Code.</b>
<b>Coll. Stat. . . .</b>	<b>„ Collection of Statutes relating to India.</b>
<b>Gen. R. and O. . . .</b>	<b>„ General Statutory Rules and Orders.</b>
<b>Ben. R. and O. . . .</b>	<b>„ Bengal List of Local Statutory Rules and Orders.</b>
<b>Bom. R. and O. . . .</b>	<b>„ Bombay List of Local Rules and Orders.</b>
<b>C. P. R. and O. . . .</b>	<b>„ Central Provinces List of Local Rules and Orders.</b>
<b>Mad. R. and O. . . .</b>	<b>„ Madras List of Local Rules and Orders.</b>
<b>Punj. R. and O. . . .</b>	<b>„ Punjab List of Local Rules and Orders.</b>
<b>U. P. R. and O. . . .</b>	<b>„ United Provinces List of Local Rules and Orders.</b>
<b>Bur. R. M. . . .</b>	<b>„ Burma Rules Manual.</b>
<b>Brit. Enact., N. S. . . .</b>	<b>„ British Enactments in force in Native States.</b>



*Chronological Table.*

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1898-1909.

[The references to pages in column 5 are to pages of this Volume.]

[For complete Chronological list of all the Acts of the Governor General in Council, whether repealed or unrepealed, see Chronological Tables and Index of Indian Statutes, Vol. I.]

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1898	I	The Stage Carriages Act (1861) Amendment Act, 1898.	S. 2 rep., Act X of 1914.	1
"	III	The Lepers Act, 1898	Rep. in part, Act XIII of 1888, s. 18; Act I of 1903. Amended, Act XIII of 1903; Act XXII of 1920.	3
"	IV	The Indian Penal Code Amendment Act, 1898.	Rep. in part, Act X of 1914.	11
"	V	The Code of Criminal Procedure, 1898.	....	Published separately.
"	VI	The Indian Post Office Act, 1898.	Rep. in part, Act XIII of 1898; Act X of 1914. Amended, Act II of 1903; Act III of 1912; Act XIV of 1914; Act XV of 1921; Act XIV of 1922; Act XVI of 1924; Act V of 1927 (temporarily).	15

**UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL, 1898-1909—*contd.***

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1898	IX	The Live-Stock Importa- tion Act, 1898.	S. 1 rep. in part, Act X of 1914.	51
"	X	The Indian Insolvency Rules Act, 1898.	Rep. in part, Act III of 1909 ; Act X of 1914.	52
1899	I	The Indian Marine Act (1887) Amendment Act, 1899.	S. 1 rep. in part, Act X of 1914.	53
"	II	The Indian Stamp Act, 1899.	Rep. in part and Amend- ed, Act IV of 1914 ; Act X of 1914 ; Amended (in Lower Burma) Act VI of 1900 ; Act XV of 1904 ; Act V of 1906 ; Act VI of 1910 ; Act I of 1912 ; Act XIII of 1916 ; Act XVIII of 1919 ; Act XV of 1925 ; Act XXXII of 1925 ; Act V of 1927 ; Act X of 1927 ; (temporarily in Bombay), Bom. Acts II of 1922 ; I and II of 1926 and II of 1927 ; (in Madras), Mad. Acts VI of 1922 and VI of 1923 ; (in Bengal), Ben. Act III of 1922 ; (in Punjab), Punj. Act VIII of 1922 ; (temporarily in Assam), Assam Acts III of 1922 and II of 1925 ; Amended, Bur. Act XI of 1922 ; U. P. Act XII of 1922 ; Modified, Act XIII of 1924.	56
"	III	The Presidency Small Cause Courts Act, 1899.	Rep. in part, Act X of 1914.	128

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COUNCIL, 1898-1909—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
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"	V	The Indian Evidence Act, 1899.	Amended, Act XXXVIII of 1920. Rep. in part, Act X of 1914.	131
"	VI	The Indian Contract Act Amendment Act, 1899.	....	132
"	VIII	The Indian Petroleum Act, 1899.	Rep. in part, Act XI of 1901; Act X of 1914. Amended, Act IV of 1914.	135
"	IX	The Indian Arbitration Act, 1899.	Amended (as to Lower Burma), Act VI of 1900; Act XI of 1923. Rep. in part, Act XXXVIII of 1920. Amended— (in U. P.), U. P. Act I of 1912; (in Burma), Bur. Act XI of 1922.	153
"	X	The Carriers Act, 1899 .	Rep. in part, Act IX of 1908.	161
"	XI	The Court-fees Amend- ment Act, 1899.	Virtually Amended, Act X of 1901. Rep. in part, Act X of 1914.	161
"	XII	The Currency Notes For- gery Act, 1899.	Rep. in part, Act X of 1914.	166
"	XIII	The Glanders and Farcy Act, 1899.	Amended, Act XI of 1901; Act XII of 1910; Act IX of 1920; Act XXXVIII of 1920. Rep. in part, Act X of 1914; Act XII of 1927.	168
"	XIV	The Indian Tariff Amend- ment Act, 1899.	S. 2 virtually amended, Act XII of 1903. Rep. in part, Act X of 1914.	172

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COUNCIL, 1898-1909—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1899	XVIII	The Land Improvement Loans (Amendment) Act, 1899.	Rep. in part, Act X of 1914.	173
"	XIX	The Currency Conversion (Army) Act, 1899.	Rep. in part and Amended. Act VII of 1900. Rep. in part, Act X of 1914.	174
"	XXIII	The Church of Scotland Kirk-Sessions Act, 1899.	Rep. in part, Act X of 1914.	175
1900	II	The Transfer of Property Act, 1900.	Rep. in part, Act X of 1914.	176
"	III	The Prisoners Act, 1900	Rep. in part, Act VI of 1900. Rep. in part and Amended, Act I of 1903; Act X of 1914; Act XXXVIII of 1920. Amended, Act IV of 1908; Act XVII of 1923.	189
"	VII	To amend and provide for the further continuance of the Currency Conversion (Army Annual) Act, 1899.	Rep. in part, Act X of 1914.	201
"	IX	<i>Court-fees (Amendment of Act VII of 1870).</i>	<i>Spent.</i>	
"	XII	The Bankers' Books Evidence Act, 1900.	Rep. in part, Act X of 1914.	202
1901	II	The Indian Tolls (Army) Act, 1901.	Rep. in part, Act XI of 1901; Act X of 1914. Amended, Act X of 1927.	202
"	X	The Court-fees (Amendment) Act, 1901.	Rep. in part, Act X of 1914.	208
"	XI	The Amending Act, 1901.	Rep. in part, Act I of 1903; Mad. Act III of 1904; Act XII of 1910; Act X of 1914; Mad. Act XIV of 1920; Act XII of 1927.	209

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COUNCIL, 1898-1909—*contd.*

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1902	III	The Indian Steam-ships (Amending and Vali- dating) Act, 1902.	Sec. 2 virtually repealed, Act I of 1909, s. 4. Rep. in part, Act X of 1914; Act XXI of 1923.	221
"	IV	The Indian Tramways Act, 1902.	....	221
"	VII	The United Provinces (Designation) Act, 1902.	....	222
"	VIII	The Indian Tariff (Amend- ment) Act, 1902.	Rep. in part, Act XI of 1904; Act X of 1914.	223
1903	I	The Amending Act, 1903	Rep. in part, Act XV of 1910; Act IV of 1914; Act X of 1914; Ben. Act I of 1905; Ben. Act V of 1913; Ben. Act V of 1914; Ben. Act V of 1923; B. & O. Act I of 1913; Punj. Act II of 1905; Act XXXVIII of 1920; Act XII of 1927.	225
"	II	The Indian Post Office (Amendment) Act, 1903.	....	230
"	VII	The Indian Works of Defence Act, 1903.	Amended, Act V of 1909. Rep. in part and Amend- ed, Act XI of 1921.	230
"	IX	The Indian Tea Cess Act, 1903.	Amended, Act I of 1921.	252
"	X	The Victoria Memorial Act, 1903.	Amended, Act VII of 1912. Rep. in part, Act X of 1914.	256

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COUNCIL, 1898-1909—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1903	XII	The Indian Tariff (Amendment) Act, 1903.	Rep. in part, Act X of 1914.	258
"	XIII	The Lepers (Amendment) Act, 1903.	....	259
"	XIV	The Indian Foreign Marriage Act, 1903.	....	260
"	XV	The Indian Extradition Act, 1903.	Amended, Act I of 1913 ; Act XVI of 1922. Rep. in part and Amended, Act X of 1914.	262
1904	VI	The Transfer of Property (Amendment) Act, 1904.	....	278
"	VII	The Ancient Monuments Preservation Act, 1904.	....	280
"	VIII	The Indian Universities Act, 1904.	Action validated, Act II of 1905 ; Amended, Act XI of 1911 ; Act X of 1914. Rep. in part, Act VII of 1921 ; U. P. Act III of 1921 ; Mad. Act VII of 1923.	293
"	XI	Act to revive and continue section 8 B of the Indian Tariff Act, 1894.	S. 2 rep., Act X of 1914.	309
"	XV	The Indian Stamp (Amendment) Act, 1904.	Virtually amended, Act I of 1912. Rep. in part, Act X of 1914.	310
1905	IV	The Indian Railway Board Act, 1905.	....	313
"	VI	The Court-fees (Amendment) Act, 1905.	....	314

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COUNCIL, 1898-1909—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1906	III	The Indian Coinage Act, 1906.	Amended, Act IV of 1918; Act XXI of 1919; Act XXXVI of 1920; Act X of 1924; Act IV of 1927. Rep. in part, Act X of 1914. Supptd., Act XXII of 1918.	314
"	IV	The Presidency Small Cause Courts Act, 1906.	Rep. in part, Act IX of 1908.	324
"	V	The Indian Stamp (Amendment) Act, 1906.	....	325
"	VIII	The Land Improvement and Agriculturists' Loans (Amendment) Act, 1906.	Ss. 2, 3 and 5 rep., Act X of 1914.	327
1908	I	The Legal Practitioners (Amendment) Act, 1908.	Rep. in part, Act XVIII of 1919.	328
"	III	The Indian Trusts (Amendment) Act, 1908.	....	329
"	IV	The Coroners (Amend- ment) Act, 1908.	S. 2 Amended, Act X of 1914.	330 Except ss. 2 to 12 which are of local application.
"	V	The Code of Civil Proce- dure, 1908.	....	Published separate- ly.
"	VI	The Explosive Substan- ces Act, 1908.	....	330 ✓

**UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL, 1898-1909—*contd.***

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1908	IX	The Indian Limitation Act, 1908.	Rep. in part, Act XVII of 1914. Amended, Act XVIII of 1919; Act XXVI of 1920; Act X of 1922; Act XI of 1923; Act XII of 1923; Act XXX of 1925; Act XXXIV of 1926; Act I of 1927; Act IX of 1927; Act X of 1927;  (in Bombay), Bom. Act XII of 1912.	334
"	X	The Indian Salt Duties Act, 1908.	Amended, Act IV of 1924.	372
"	XIV	The Indian Criminal Law Amendment Act, 1908.	Rep. in part, Act V of 1922. Rep. in part and Amended, Act XXXVIII of 1920.	372
"	XV	The Indian Ports Act, 1908.	Supptd., Ben. Act III of 1867.  Amended, Act IV of 1911; Act VI of 1916; Act XV of 1922; Act XXXIX of 1923; Act IX of 1925.  Rep. in part and Amended, Act XXXVI of 1925.  Amended in its application to Madras by Mad. Act I of 1926.	374

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1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1908	XVI	The Indian Registration Act, 1908.	Supp'd., Act I of 1880 ; Act IV of 1882. Amended, Act IV of 1914 ; Act V of 1917 ; Act XV of 1917 ; Act XIII of 1926 ; Act II of 1927. Rep. in part— Act XXXVIII of 1920 ; Act X of 1927. Appln. restricted, C. P. Act II of 1916, s. 18.	425
1909	III	The Presidency-towns Insolvency Act, 1909.	Amended, Act XI of 1920 ; Act IX of 1926 ; Act XXXIV of 1926 (when notified) ; Act XI of 1927. Rep. in part, Act X of 1914.	464
"	IV	The Whipping Act, 1909	Rep. in part, Act XVII of 1914.	529
"	VII	The Anand Marriage Act, 1909.	....	531



THE  
UNREPEALED GENERAL ACTS  
OF THE  
GOVERNOR GENERAL IN COUNCIL.

ACT No. I OF 1898.<sup>1</sup>

[21st January, 1898.]

An Act to amend the Stage-Carriages Act, 1861.

**XVI of 1861.** WHEREAS it is expedient to amend the Stage-Carriages Act, 1861; It is hereby enacted as follows :—

1. This Act may be called the Stage-Carriages Act (1861) Amendment Short title. Act, 1898.

2. [*Repeals.*] *Repealed by S. 3 and Sch. II of the Repealing and Amending Act, 1914.*

**XVI of 1861.** 3. The first paragraph of section 4 of the Stage-Carriages Act, 1861, Substitution of new paragraph in section 4, Act XVI, 1861. is hereby repealed, and the following paragraph is substituted therefor, namely :—

“ For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees or such less sum as the Local Government may fix, and such license shall be in force for one year from the date thereof.”

4. After section 20 of the said Act the following section shall be added, Addition of new section after section 20, Act XVI, 1861. namely :—

“ 20A. (1) The Local Government may, by notification in the official Gazette, make rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories. Power to make rules.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 115; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 1; and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 221 and 254, and *ibid*, 1898, Pt. VI, p. 10.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked;
- (b) provide for the inspection of stage-carriages, and of the animals employed in drawing them; and
- (c) regulate the number and length of the stages for which animals may be driven in stage-carriages, and the manner in which they shall be harnessed and yoked.

(3) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.”

**Addition of sections after section 21, Act XVI, 1861.**

5. After section 21 of the said Act the following sections shall be added, namely :—

**Extent of Act.**

“22. This Act, as amended by subsequent Acts, extends to the whole of British India; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.<sup>1</sup>

**Power to Local Government to exempt.**

23. The Local Government may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.”

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<sup>1</sup> For law regulating carriages in municipalities and cantonments in—

- (1) Bengal, *see* Calcutta Hackney Carriage Act, 1919 (Ben. Act I of 1919), Ben. Code;
- (2) Bombay, *see* Bombay Act VII of 1920, Bom. Code, Vol. V;
- (3) Assam, Ajmere, Coorg, United Provinces and Oudh, Central Provinces, Punjab and Burma, *see* the Hackney Carriage Act, 1879 (XIV of 1879), printed in the Codes for those Provinces;
- (4) Madras, *see* the Madras Hackney Carriage Act, 1911 (V of 1911), Mad. Code, Vol. 11.

ACT No. III of 1898.<sup>1</sup>

[4th February, 1898.]

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows :—

1. (1) This Act may be called the Lepers Act, 1898.

(2) It extends to the whole of British India, inclusive of \* \* \*<sup>2</sup> Title, extent and commencement.  
British Baluchistan, the Santhal Parganas and the Pargana of Spiti; but

(3) It shall not come into force in any part thereof until the Local Government, as hereinafter provided, has declared it applicable thereto.

(4) The Local Government may, by notification<sup>3</sup> in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration, \* \* \*<sup>4</sup>

2. In this Act, unless there is anything repugnant in the subject or Definitions: context,—

(1) "leper" means any person suffering from any variety of leprosy \* \* \*<sup>5</sup>;

(2) "pauper leper" means a leper—

(a) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 231; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 7; and for Proceedings in Council, see *ibid*, 1896, Pt. VI, p. 227; *ibid*, 1897, Pt. VI, p. 248; and *ibid*, 1898, Pt. VI, pp. 10 and 18.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 (1) and First Schedule, Bur. Code, Vol. I.

The Act has been declared in force in Arakan Hill District, by Regulation I of 1916, s. 2, see Burma Code, Vol. I; in the Pargana of Manpur with modifications under s. 2 of the Manpur Laws Regulation, 1926 (II of 1926).

It has been declared in force in the Santhal Parganas, see Regulation III of 1872, s. 3, as amended by Regulation III of 1896, s. 3, Ben. Code.

<sup>2</sup> The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule, Bur. Code, Vol. I.

<sup>3</sup> For notifications under this sub-section, see different Local Rules and Orders.

<sup>4</sup> Omitted by section 2 of the Lepers (Amendment) Act, 1920 (22 of 1920).

<sup>5</sup> Omitted by section 3, *ibid*.

(b) who is at large without any ostensible means of subsistence ;

(3) "leper asylum" means a leper asylum appointed under section 3 ;

(4) "Board" means a Board constituted under section 5 ; and

(5) "District Magistrate" includes a Chief Presidency Magistrate.

**Appointment  
of leper  
asylums by  
Local Gov-  
ernment.**

1[3. The Local Government may, by notification<sup>2</sup> in the official Gazette, appoint any place to be a leper asylum if it is satisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of lepers therein, and may, by a like notification, specify the local areas from which lepers may be sent to such asylum.]

**Appointment  
of Inspectors  
of Lepers  
and Superin-  
tendents of  
Asylums.**

4. Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer of the Government or other qualified medical man to be an Inspector<sup>3</sup> of Lepers and any person to be a Superintendent<sup>3</sup> of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

**Constitution  
of Board.**

5. The Local Government shall constitute for every leper asylum appointed under section 3 a Board<sup>4</sup> consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

**Arrest of  
pauper lep-  
ers.**

6. (1) Within any local area which has been specified under section 3 any police-officer<sup>5</sup> [or any other person specially empowered by the Local Government by order in writing in this behalf] may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such police-officer [or other person]<sup>5</sup> shall forthwith take or send the person so arrested to the nearest convenient police-station.

**Person  
arrested how  
to be dealt  
with.**

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

(a) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth

<sup>1</sup> This section was substituted by section 4 of the Lepers (Amendment) Act, 1920 (22 of 1920).

<sup>2</sup> For notifications under this section, see different Local Rules and Orders.

<sup>3</sup> For appointment of such Inspectors and Superintendents, see different Local Rules and Orders.

<sup>4</sup> For notifications constituting such Boards, see different Local Rules and Orders.

<sup>5</sup> These words were inserted by section 5 of the Lepers (Amendment) Act, 1920 (22 of 1920).

in the schedule, whereupon such person shall be forthwith released from arrest;

- (b) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

8. (1) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate :

*Procedure with regard to pauper lepers.*

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail :

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure<sup>1</sup> shall be applicable.

**X of 1882.**

(2) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

<sup>1</sup> See now Act 5 of 1898.

Power to prohibit lepers from following certain trades and doing certain acts.

9. (1) The Local Government may, by notification<sup>1</sup> in the official Gazette, order that no leper shall, within any area specified under section 3,—

- (a) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use; or
- (b) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers; or
- (c) drive, conduct or ride in any public carriage plying for hire other than a railway carriage; or
- (d) exercise any trade or calling which may by such notification be prohibited to lepers.

(2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees :

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

Conviction after previous conviction.

10. (1) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(2) If any such leper fails to furnish any security required under subsection (1), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

<sup>1</sup> For notifications issued in exercise of the powers conferred by this section, see different Local Rules and Orders.

(3) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees : Penalty on person employing lepers in prohibited trade.

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested <sup>1</sup>[without a warrant by any police-officer or by any other person especially empowered by the Local Government by order in writing in this behalf,] and upon arrest shall be forthwith taken back to the leper asylum. Re-arrest of escaped lepers.

13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (a) every leper therein admitted since the last inspection, together with the order for his admission, and (b), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein. Inspection by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act. Order of discharge by Board.

15. Any person, other than a pauper leper, in respect of whom an Appeals, Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or

<sup>1</sup> These words were substituted by s. 6 of the Lepers (Amendment) Act, 1920 (22 of 1920).

refusal of any such certificate to such officer<sup>1</sup> as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

Power of the  
Local Gov-  
ernment to  
make rules.

16. The Local Government may, by notification in the official Gazette, make rules<sup>2</sup> generally for carrying out the purposes of this Act, and in particular—

- (a) for the guidance of all or any of the officers discharging any duty under this Act; and
- (b) for the management of, and the maintenance of discipline in, a leper asylum.

Power to  
local author-  
ities to ex-  
pend funds  
and appro-  
priate pro-  
perty to  
asylums.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

- (a) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority;
- (b) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

Protection  
to persons  
acting bona  
fide under  
Act.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith<sup>3</sup> done or intended to be done under, or in pursuance of, the provisions of this Act.

Lepers from  
Native  
States.

19. The Governor General in Council may, by notification<sup>4</sup> in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native

<sup>1</sup> The Principal of the Medical College, Calcutta, is the officer appointed for Bengal, see Ben. R. and O.; and the Commissioner of Tirhut for the asylum at Muzaffarpur, see Calcutta Gazette, 1909, Pt. I, p. 959.

<sup>2</sup> For rules made in exercise of the powers conferred by this section, see different Local Rules and Orders.

<sup>3</sup> As to definition of good faith, see s. 3 (20) of the General Clauses Act, 1897 (X of 1897).

<sup>4</sup> Added by the Lepers (Amendment) Act, 1903 (XIII of 1903), s. 2. The original section 19 was repealed by the Repealing and Amending Act, 1903 (I of 1903).

<sup>5</sup> For a notification under this section, see Gazette of India, 1919, Pt. I, p. 1931, and Gen. R. and O., Vol. III, p. 240.

Prince or State in India, may be sent to any leper asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act.

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### SCHEDULE.

#### A.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the                      day of                      at personally examined (*here enter name of person examined*), and that the said                      is not a leper as defined by the Lepers Act, 1898.

Given under my hand this                      day of                      189 .

(Signature.)

*Inspector of Lepers.*

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#### B.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the                      day of                      at                      personally examined (*here enter name of leper*), and that the said                      is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this                      day of                      189 .

(Signature.)

*Inspector of Lepers.*

## C.—WARRANT OF DETENTION.

(Section 8.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT . . .

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said . . . into your custody together with this order and  $\frac{\text{him}}{\text{her}}$  safely to keep in the said asylum until  $\frac{\text{he}}{\text{she}}$  shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this . . . day of  
189 .



(Signature.)

Magistrate.

## D.—WARRANT OF DETENTION.

(Section 10.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT . . .

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said . . . into your custody together with this order and  $\frac{\text{him}}{\text{her}}$  safely to keep in the said asylum until  $\frac{\text{he}}{\text{she}}$  shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this . . . day of  
189 .



(Signature.)

Magistrate.

## E.—ORDER OF DISCHARGE BY BOARD.\*

(Section 14.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) was committed to your custody under an order dated the                      day of                      189                      and there have appeared to us sufficient grounds for the opinion that <sup>he</sup><sub>she</sub> can be released without hazard or inconvenience to the community :

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this                      day of                      189 .

(Signatures.)

*Members of the Asylum Board.*


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\* A corresponding form may be used by the District Magistrate for orders of discharge issued under section 10 (2).

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ACT No. IV OF 1898.<sup>1</sup>

[18th February, 1898.]

## An Act to amend the Indian Penal Code.

**XLV of 1860:** WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Penal Code Amendment Short title. Act, 1898; \* \* \*2

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 184; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 13; and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 237 and 254; and *ibid*, 1898, Pt. VI, pp. 19 and 23.

This Act is in force in Upper Burma (except the Shan States) as amending the Indian Penal Code (Act XLV of 1860), see the Burma Laws Act, 1898 (XIII of 1898), First Schedule, Bur. Code.

It has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899), B. & O. Code, Vol. I.

<sup>2</sup> The word "and" and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

Substitution  
of new  
section for  
section 4,  
Act XLV,  
1860.

2. Section 4 of the Indian Penal Code is hereby repealed, and the **XLV** of 1860 following section is substituted therefor, namely :—

Extension of  
Code to  
extra-terri-  
torial offen-  
ces.

“4. The provisions of this Code apply also to any offence committed by—

- (1) any Native Indian subject of Her Majesty in any place without and beyond British India;
- (2) any other British subject within the territories of any Native Prince or Chief in India;
- (3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

*Explanation.*—In this section the word “offence” includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

#### *Illustrations.*

(a) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found.

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder.”

Insertion of  
new section  
after section  
108, Act  
XLV, 1860.

3. After section 108 of the Indian Penal Code, the following section **XLV** of 1860, shall be added, namely :—

Abetment in  
British India  
of offences  
on

“108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

#### *Illustration.*

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.”

**XLV of 1860.** 4. Section 124A of the Indian Penal Code is hereby repealed, and the following section is substituted therefor, namely :—

Substitution  
of new  
section  
for section  
124A, Act  
XLV, 1860.

“124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

*Explanation 1.*—The expression “disaffection” includes disloyalty and all feelings of enmity.

*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

*Explanation 3.*—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.”

**XLV of 1860.** 5. After section 153 of the Indian Penal Code the following section shall be inserted, namely :—

Addition of  
new section  
after section  
153, Act  
XLV, 1860.

“153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty’s subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Promoting  
enmity  
between  
classes.

*Explanation.*—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty’s subjects.”

Substitution  
of new sec-  
tion for  
section 505,  
Act XLV,  
1860.

Statements  
conducing to  
public  
mischief.

6. Section 505 of the Indian Penal Code is hereby repealed and the XLV of 1860 following section is substituted therefor, namely :—

“505. Whoever makes, publishes or circulates any statement, rumour or report,—

(a) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

*Exception.*—If does not amount to an offence within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.”

## THE INDIAN POST OFFICE ACT, 1898.

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## (Chapter I.—Preliminary.)

ACT No. VI OF 1898.<sup>1</sup>

[22nd March, 1898.]

## An Act to consolidate and amend the Law relating to the Post Office in India.

WHEREAS it is expedient to consolidate and amend the law relating to the Post Office in India; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Short title,  
extent,  
application  
and com-  
mencement.

1. (1) This Act may be called the Indian Post Office Act, 1898.
- (2) It extends to the whole of British India, inclusive of \* \*<sup>2</sup>, British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and it applies also to—

- (a) all Native Indian subjects of Her Majesty in any place without and beyond British India;
- (b) all other British subjects within the territories of any Native Prince or Chief in India; and
- (c) all servants of the Queen, whether British subjects or not, within the territories of any Native Prince or Chief in India.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 385; for Report of the Select Committee, see *ibid.*, 1898, Pt. V, p. 211; for Proceedings in Council, see *ibid.*, 1897, Pt. VI, p. 249; *ibid.*, 1898, Pt. VI, pp. 23, 99 and 285 to 289.

The Act has been applied, under s. 3 (2) of the Chin Hills Regulation, 1896 (V of 1896), to tracts in which ss. 2 and 4 to 41 of the Regulation have been applied, see Burma Gazette, 1898, Pt. I, p. 420.

It has been declared to be applicable to members of a Hill-tribe in a Hill-tract under s. 3 (3) of the Kachin Hill Tribes Regulation, 1895 (I of 1895), see Burma Gazette, 1898, Pt. I, p. 564.

It has been declared, by notification under s. 3 of the Angul Laws Regulation, 1913 (3 of 1913), to be in force in the District of Angul, Bihar and Orissa Code, Vol. I.

It has been declared to be in force in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (I of 1900), Ben. Code, Vol. I.

It has been declared in force in the Pargana of Manpur under s. 2 of the Manpur Laws Regulation, 1926 (II of 1926).

It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule, Bur. Code, Vol. I.

It has been declared in force in the Arakan Hill District by Regulation I of 1916, s. 2, see Bur. Code, Vol. I.

As to rules made under the Post Office Act, which are now in force or are in force from time to time, see the Indian Postal Guide, which is published by the Post Office half-yearly; see also Gazette of India, 1926, Pt. I, p. 1224.

<sup>2</sup> The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule, Bur. Code, Vol. I.

*(Chapter I.—Preliminary.)*

(3) It shall come into force on the first day of July, 1898.

2. In this Act, unless there is anything repugnant in the subject or **Definitions.** context,—

(a) the expression "Director General" means the Director General of <sup>1</sup>[Posts and Telegraphs] :

(b) the expression "inland," used in relation to a postal article, means—

(i) posted in British India and addressed to any place in British India or to any place for which a post office is established by the Governor General in Council beyond the limits of British India; or

(ii) posted at any post office established by the Governor General in Council beyond the limits of British India and addressed to any place for which any such post office is established or to any place in British India :

<sup>2</sup>[Provided that the expression " inland " shall not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification :]

(c) the expression "mail bag" includes a bag, box, parcel or any other envelope or covering in which postal articles in course of transmission by post are conveyed, whether it does or does not contain any such article :

(d) the expression "mail ship" means a ship employed for carrying mails, pursuant to contract or continuing arrangement, by the Government of India or Her Majesty's Government or the Government of any British possession or foreign country :

(e) the expression "officer of the Post Office" includes any person employed in any business of the Post Office or on behalf of the Post Office :

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<sup>1</sup> These words were substituted for the words "the Post Office of India" by s. 3 (i) of the Indian Post Office and Telegraph (Amendment) Act, 1914 (14 of 1914).  
<sup>2</sup> Added by s. 2 of the Indian Post Office (Amendment) Act, 1903 (2 of 1903).

## (Chapter I.—Preliminary.)

- (f) the expression “postage” means the duty chargeable for the transmission by post of postal articles :
- (g) the expression “postage stamp” means any stamp provided by the Governor General in Council for denoting postage or other fees or sums payable in respect of postal articles under this Act, and includes adhesive postage stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, postcard or other article :
- (h) the expression “post office” includes every house, building, room, carriage or place used for the purposes of the Post Office, and every letter-box provided by the Post Office for the reception of postal articles :
- (i) the expression “postal article” includes a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post :
- (j) the expression “Post Master General” includes a Deputy Post Master General or other officer exercising the powers of a Post Master General : and
- (k) the expression “the Post Office” means the department <sup>1</sup>[established for the purpose of carrying the provisions of this Act into effect and] presided over by the Director General.

Meanings of  
“in course  
of trans-  
mission by  
post” and  
“delivery”.

## 3. For the purposes of this Act,—

- (a) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII :
- (b) the delivery of a postal article of any description to a postman or other person authorized to receive postal articles of that description for the post shall be deemed to be a delivery to a post office : and

<sup>1</sup> These words were inserted by s. 3 (ii) of the Indian Post Office and Telegraph (Amendment) Act, 1914 (14 of 1914).

(Chapter I.—Preliminary. Chapter II.—Privilege and Protection of the Government.)

- (c) the delivery of a postal article at the house or office of the addressee or to the addressee or his servant or agent or other person considered to be authorized to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

## CHAPTER II.

### PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

4. (1) Wherever within British India posts or postal communications are established by the Governor General in Council, the Governor General in Council shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say :—

Exclusive privilege of conveying letters reserved to the Government.

- (a) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them ;
- (b) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose ; and
- (c) letters solely concerning goods or property, sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them :

Provided that nothing in this section shall authorize any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by post.

(2) For the purposes of this section and section 5, the expression "letters" includes postcards.

(Chapter II.—*Privilege and Protection of the Government.* Chapter III.—*Postage.*)

Certain persons expressly forbidden to convey letters.

5. Wherever within British India posts or postal communications are established by the Governor General in Council, the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward or other profit or advantage for so doing, that is to say:—

- (a) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages; and
- (b) owners and masters of vessels sailing or passing on any river or canal in British India, or between any ports or places in British India, and their servants or agents, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under Chapter VIII.

Exemption from liability for loss, misdelivery, delay or damage.

6. The Secretary of State for India in Council shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the Governor General in Council as hereinafter provided; and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

### CHAPTER III.

#### POSTAGE.

Power to fix rates of inland postage.

7. (1) The Governor General in Council may, by notification in the Gazette of India, fix the rates of postage and other sums to be charged in respect of postal articles sent by the inland post under this Act, and may make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged :

Provided that the highest rate of postage, when prepaid, shall not exceed the rate set forth for each class of postal articles in the first schedule.

## (Chapter III.—Postage.)

(2) Unless and until such notification as aforesaid is issued, the rates set forth in the said schedule shall be the rates chargeable under this Act.

(3) The Governor General in Council may, by notification in the Gazette of India, declare what packets may be sent by the inland post as book, pattern and sample packets within the meaning of this Act.

8. The Governor General in Council may, by rule,—

- (a) require the prepayment of postage on inland postal articles or any class of inland postal articles, and prescribe the manner in which prepayment shall be made;
- (b) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid;
- (c) provide for the redirection of postal articles and the transmission by post of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules; and
- (d) prescribe the fees to be charged for the “ express delivery ” of postal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

Power to make rules as to payment of postage and fees in certain cases.

*Explanation.*—“Express delivery” means delivery by a special messenger or conveyance.

9. (1) The Governor General in Council may make rules providing for the registration of newspapers for transmission by inland post as registered newspapers.

Power to make rules as to registered newspapers.

(2) For the purpose of such registration, every publication, consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely :—

- (a) that it is published in numbers at intervals of not more than thirty-one days; and
- (b) that it has a *bonâ fide* list of subscribers.

## (Chapter III.—Postage.)

(3) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper :

Provided that no such extra or supplement shall be so deemed unless it consists wholly or in great part of matter like that of the newspaper and has the title and date of publication of the newspaper printed at the top of each page.

*Explanation.*—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by the inland post.

Power to  
declare rates  
of foreign  
postage.

10. (1) Where arrangements are in force with the United Kingdom, or with any British possession or foreign country, for the transmission by post of postal articles between British India and the United Kingdom or such possession or country, the Governor General in Council may, in conformity with the provisions of such arrangements, declare what postage rates and other sums shall be charged in respect of such postal articles, and may make rules as to the scale of weight, terms and conditions subject to which the rates so declared shall be charged.

(2) Unless and until such declaration as aforesaid is made, the existing rates and regulations shall continue in force.

Liability for  
payment of  
postage.

11. (1) The addressee of a postal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened :

Provided that, if any such postal article appears to the satisfaction of the Post Master General to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(2) If any postal article on which postage or any other sum chargeable under this Act is due, is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

Recovery of  
postage and  
other sums  
due in  
respect  
of postal  
articles.

12. If any person refuses to pay any postage or other sum due from him under this Act in respect of any postal article, the sum so due may, on application made by an officer of the Post Office authorized in this behalf by the written order of the Post Master General, be recovered for the use of the Post Office from the person so refusing, as if it were a

## (Chapter III.—Postage. Chapter IV.—Postage Stamps.)

fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident; and the Post Master General may further direct that any other postal article, not being on Her Majesty's service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

13. When a postal article, on which any duty of customs is payable, has been received by post from any place beyond the limits of British India, and the duty has been paid by the postal authorities at any customs-port or elsewhere, the amount of the duty shall be recoverable as if it were postage due under this Act.

Customs-duty paid by the Post Office to be recoverable as postage.

14. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of a postal article,—

Post Office marks *prima facie* evidence of certain facts denoted.

(a) the production of the postal article, having thereon the official mark of the Post Office denoting that the article has been refused, or that the addressee is dead or cannot be found, shall be *prima facie* evidence of the fact so denoted, and

(b) the person from whom the postal article purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the Post Office of British India or to the Post Office of the United Kingdom or of any British possession or foreign country, shall be *prima facie* evidence that the sum denoted as aforesaid is so due.

Official mark to be evidence of amount of postage.

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## CHAPTER IV.

### POSTAGE STAMPS.

16. (1) The Governor General in Council shall cause postage stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Act.

Provision of postage stamps and power to make rules as to them.

(2) The Governor General in Council may make rules as to the supply, sale and use of postage stamps.

(Chapter IV.—Postage Stamps. Chapter V.—Conditions of Transmission of Postal Articles.)

(3) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the price at which postage stamps shall be sold;
- (b) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Act;
- (c) prescribe the conditions with regard to perforation, defacement and all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums;
- (d) regulate the custody, supply and sale of postage stamps;
- (e) declare the persons by whom and the terms and conditions subject to which postage stamps may be sold; and
- (f) prescribe the duties and remuneration of persons selling postage stamps.

Postage stamps to be deemed to be stamps for the purpose of revenue.

<sup>1</sup>17. (1) Postage stamps provided under section 16 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Indian Penal Code, and, subject to the other provisions **XLV of 1860.** of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of postal articles, except where the Governor General in Council directs that prepayment shall be made in some other way.

<sup>1</sup>[(2) Where the Governor General in Council has directed that prepayment of postage or other sums chargeable under this Act in respect of postal articles may be made by prepaying the value denoted by the impressions of stamping machines issued under his authority, the impression of any such machine shall likewise be deemed to be a stamp issued by Government for the purpose of revenue, within the **XLV of 1860.** meaning of the Indian Penal Code.]

## CHAPTER V.

### CONDITIONS OF TRANSMISSION OF POSTAL ARTICLES.

Redelivery to sender of postal article in course of

18. (1) The Governor General in Council may, by rule, provide for the redelivery to the sender, without reference to the consent of the

<sup>1</sup> Section 17 was re-numbered as section 17 (1) and sub-section (2) was added by s. 2 of the Indian Post Office (Amendment) Act, 1924 (16 of 1924).

*(Chapter V.—Conditions of Transmission of Postal Articles.)*

addressee and subject to such conditions (if any) as may be deemed fit, <sup>transmission by post.</sup>  
of any postal article in course of transmission by post.

(2) Save as provided by any rules that may be made under subsection (1), the sender shall not be entitled to recall a postal article in course of transmission by post.

19. (1) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the Post Office. <sup>Transmission by post of anything injurious prohibited.</sup>

(2) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the Post Office.

20. No person shall send by post—

- (a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or <sup>Transmission by post of anything indecent, etc., prohibited.</sup>
- (b) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

21. <sup>1</sup>[(1) The Governor General in Council may make rules as to the transmission of articles by post. <sup>Power to make rules as to transmission by post of postal articles.</sup>

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) specify articles which may not be transmitted by post;
- (b) prescribe conditions on which articles may be transmitted by post;
- (c) provide for the detention and disposal of articles in course of transmission by post in contravention of rules made under clause (a) or clause (b);

<sup>1</sup> These sub-sections were substituted by s. 2 of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

*(Chapter V.—Conditions of Transmission of Postal Articles.)*

(d) provide for the granting of receipts for, and the granting and obtaining of certificates of, posting and delivery of postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates; and

(e) regulate covers, forms, dimensions, maximum weights, and enclosures, and the use of postal articles, other than letters, for making communications.]

(3) Postal articles shall be posted and delivered at such times and in such manner as the Director General may, by order, from time to time appoint.

Power to postpone despatch or delivery of certain postal articles.

22. (1) Where the despatch or delivery from a post office of letters would be delayed by the despatch or delivery therefrom at the same time of book, pattern or sample packets and parcels, or any of them, such packets or parcels, or any of them, may, subject to such rules as the Governor General in Council may make in this behalf, be detained in the Post Office so long as may be necessary.

(2) Where separate parcel posts are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Post Office for that purpose.

Power to deal with postal articles posted in contravention of Act.

23. (1) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as the Governor General in Council may, by rule, direct.

(2) Any officer in charge of a post office or authorized by the Post Master General in this behalf may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by post, which he suspects to have been sent by post in contravention of 1[section 20, clause (a), or of] section 21 or of any of the provisions of this Act relating to postage.

(3) Notwithstanding anything in sub-section (1)—

(a) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed; and

<sup>1</sup> These words and figures were inserted by s. 3 (1) of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

*(Chapter V.—Conditions of Transmission of Postal Articles.)*

<sup>1</sup>[(b) any postal article sent by post in contravention of the provisions of section 20 may be disposed of in such manner as the Governor General in Council may by rule direct].

24. <sup>2</sup>[Except as otherwise provided in this Act, where a postal article suspected to contain any goods of which the import by post or the transmission by post is prohibited by or under any enactment for the time being in force,] or anything liable to duty, is received for delivery at a post office, the officer in charge of the post office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office, and shall in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article :

Power to deal with postal articles containing goods contraband or liable to duty.

Provided, first, that, if the Director General so directs in the case of any post office or class of post offices, the officer in charge of the post office shall call in two respectable persons as witnesses before he opens a postal article in the absence of the addressee or his agent :

Provided, secondly, that in all cases a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the postal article and the circumstances connected therewith shall be immediately reported to the Post Master General :

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<sup>4</sup>[24A. The Governor General in Council may, by general or special order, empower any officer of the Post Office, specified in such order, to deliver any postal article, received from beyond the limits of British India and suspected to contain anything liable to duty, to such Customs authority as may be specified in the said order, and such Customs authority shall deal with such article in accordance with the provisions of the Sea Customs Act, 1878, or of any other law for the time being in force.]

Power to deliver such articles to Customs authority.

VIII of  
1878.

<sup>1</sup> Clause (b) was substituted by s. 3 (2) of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

<sup>2</sup> These words were substituted by s. 4, *ibid.*

<sup>3</sup> The third proviso was omitted by s. 2 of the Indian Post Office (Amendment) Act, 1921 (15 of 1921).

<sup>4</sup> This section was inserted by s. 3, *ibid.*

## (Chapter V.—Conditions of Transmission of Postal Articles.)

Power to  
intercept  
notified  
goods  
during  
transmis-  
sion by post.

25. Where a notification has been published under section 19 of the Sea Customs Act, 1878, in respect of any goods of any specified description, any officer of the Post Office empowered in this behalf by the Governor General in Council may search, or cause search to be made, for any such goods in course of transmission by post, and shall deliver <sup>VIII of 1878.</sup> <sup>1</sup>[all postal articles reasonably believed or found to contain such goods] to such officer as the Governor General in Council may appoint in this behalf, and such goods may be disposed of in such manner as the Governor General in Council may direct. <sup>2</sup>[In carrying out any such search, such officer of the Post Office may open or unfasten, or cause to be opened or unfastened, any newspaper or any book, pattern or sample packet in course of transmission by post.]

Power to  
intercept  
postal  
articles  
for public  
good.

26. (1) On the occurrence of any public emergency, or in the interest of the public safety or tranquillity, the Governor General in Council, or a Local Government, or any officer specially authorized in this behalf by the Governor General in Council, may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or <sup>3</sup>[shall be disposed of in such manner as the authority issuing the order may direct].

(3) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (1) was in the interest of the public safety or tranquillity, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to  
deal with  
postal  
articles  
from abroad  
bearing  
fictitious or  
previously  
used stamps.

27. (1) Where a postal article is received by post from any place beyond the limits of British India—

- (a) bearing a fictitious postage stamp, that is to say, any facsimile or imitation or representation of a postage stamp, or
- (b) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article,

the officer in charge of the post office at which the postal article is received, shall send a notice to the addressee inviting him to attend,

<sup>1</sup> These words were substituted by s. 5 of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

<sup>2</sup> These words were added by s. 5, *ibid.*

<sup>3</sup> These words were substituted by s. 6, *ibid.*

*(Chapter V.—Conditions of Transmission of Postal Articles.)*

either in person or by agent, within a specified time at the post office to receive delivery of the postal article.

(2) If the addressee or his agent attends at the post office within the time specified in the notice and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article and to redeliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp, or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(3) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to redeliver the postal article or portion thereof as required by subsection (2), the postal article shall not be delivered to him, but shall be disposed of in such manner as the Governor General in Council may direct.

*Explanation.*—For the purposes of this section, the expression “postage stamp” includes any postage stamp for denoting any rate or duty of postage of any part of Her Majesty’s dominions or of any Native State or foreign country <sup>1</sup>[and the impression of any stamping machine provided or authorised for the like purpose by or under the authority of the Government of such part, State or country].

<sup>2</sup>[27A. No newspaper printed and published in British India without conforming to the rules laid down in the Press and Registration of Books Act, 1867, shall be transmitted by post.

Prohibition of transmission by post of certain newspapers.

27B. (1) Any officer of the Post Office authorised by the Post Master General in this behalf may detain any postal article in course of transmission by post which he suspects to contain—

Power to detain newspapers and other articles being transmitted by post.

- (a) (i) any newspaper or book as defined in the Press and Registration of Books Act, 1867; or  
(ii) any document;

<sup>1</sup> These words were added by s. 3 of the Indian Post Office (Amendment) Act, 1924 (16 of 1924).

<sup>2</sup> These sections were inserted by s. 6 and Sch. IV of the Press Law Repeal and Amendment Act, 1922 (14 of 1922).

*(Chapter V—Conditions of Transmission of Postal Articles.)*

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A <sup>XLV of 1860.</sup> of the Indian Penal Code; or

(b) any newspaper as defined in the Press and Registration of Books Act, 1867, edited, printed or published otherwise <sup>XXV of 1867.</sup> than in conformity with the rules laid down in that Act;

and shall deliver any postal article so detained to such officer as the Local Government may appoint in this behalf.

(2) Any officer detaining any postal article under the provisions of sub-section (1) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(3) The Local Government shall cause the contents of any postal article detained under sub-section (1) to be examined, and, if it appears to the Local Government that the article contained any newspaper, book or other document, of the nature described in clause (a) or clause (b) of sub-section (1), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any article detained under the provisions of clause (a) of sub-section (1) may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper:

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter.

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

**27C.** Every application made under the second proviso to sub-section (3) of section 27B shall be heard and determined in the manner provided by sections 99D to 99F of the Code of Criminal Procedure, V of 1898. 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code.

Procedure  
for disposal  
by High  
Court of  
applications  
for release  
of news-  
papers and  
articles so  
detained.

(Chapter V.—Conditions of Transmission of Postal Articles. Chapter VI.—Registration, Insurance and Value-payable Post.)

**27D.** No order passed or action taken under section 27B shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (3) of that section.] Jurisdiction barred.

## CHAPTER VI.

### REGISTRATION, INSURANCE AND VALUE-PAYABLE POST.

**28.** The sender of a postal article may, subject to the other provisions of this Act, have the article registered at the post office at which it is posted, and require a receipt therefor; and the Governor General in Council may, by notification in the Gazette of India, direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles. Registration of postal articles.

**29. (1)** The Governor General in Council may make rules as to the registration of postal articles. Power to make rules as to registration.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare in what cases registration shall be required;
- (b) prescribe the manner in which the fees for registration shall be paid; and
- (c) direct that twice the fee for registration shall be levied on the delivery of a postal article required to be registered on which the fee for registration has not been prepaid.

(3) Postal articles made over to the Post Office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Director General may, by order, from time to time appoint.

**30.** The Governor General in Council may, by notification in the Gazette of India, direct— Insurance of postal articles.

- (a) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against the risk of loss or damage in course of transmission

*(Chapter VI.—Registration, Insurance and Value-payable Post.)*

by post, and that a receipt therefor shall be granted to the person posting it; and

- (b) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles.

Power to  
require  
insurance  
of postal  
articles.

**31.** The Governor General in Council may, by notification in the Gazette of India, declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification :

Provided that the levy of such special fee as aforesaid shall not impose any liability upon the Secretary of State for India in Council in respect of the postal article.

Power to  
make rules  
as to in-  
surance.

**32.** (1) The Governor General in Council may make rules as to the insurance of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare what classes of postal articles may be insured under section 30;
- (b) fix the limit of the amount for which postal articles may be insured; and
- (c) prescribe the manner in which the fees for insurance shall be paid.

(3) Postal articles made over to the Post Office for the purpose of being insured shall be delivered, when insured, at such places and times and in such manner as the Director General may, by order, from time to time appoint.

Liability in  
respect of  
postal  
articles  
insured.

**33.** Subject to such conditions and restrictions as the Governor General in Council may, by rule, prescribe, the Secretary of State for India in Council shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender

*(Chapter VI.—Registration, Insurance and Value-payable Post.)*

thereof for the loss of the postal article or its contents, or for any damage caused to it in course of transmission by post :

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused.

34. The Governor General in Council may, by notification in the Gazette of India, direct that, subject to the other provisions of this Act and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender :

Transmission by post of value-payable postal articles.

Provided that the Secretary of State for India in Council shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

*Explanation.*—Postal articles sent in accordance with the provisions of this section may be described as “ value-payable ” postal articles.

35. (1) The Governor General in Council may make rules as to the transmission by post of value-payable postal articles.

Power to make rules as to value-payable postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare what classes of postal articles may be sent as value-payable postal articles;
- (b) direct that no postal article shall be so sent unless the sender declares that it is sent in execution of a *bond fide* order received by him;
- (c) limit the value to be recovered on the delivery of any value-payable postal article; <sup>1</sup>\*
- (d) prescribe the form of declaration to be made by the senders of value-payable postal articles, and the time and manner of the payment of fees;
- <sup>2</sup>[(e) provide for the retention and repayment to the addressee in cases of fraud of money recovered on the delivery of any value-payable postal article; and

<sup>1</sup> The word “and” was omitted by s. 7 (1) of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

<sup>2</sup> These clauses were added by s. 7 (1), *ibid.*

(Chapter VI.—Registration, Insurance and Value-payable Post.  
Chapter VII.—Undelivered Postal Articles.)

(f) prescribe the fees to be charged for inquiries into complaints regarding the delivery of or payment for value-payable postal articles.]

(3) Postal articles shall be made over to the Post Office for the purpose of being sent as “ value-payable ” and shall be delivered, when so sent, at such times and in such manner as the Director General may, by order, from time to time appoint.

<sup>1</sup>[(4) No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of anything done, or in good faith purporting to be done, under any rule made under clause (e) of sub-section (2).]

Power to  
give effect  
to arrange-  
ments  
with other  
countries.

36. (1) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the transmission by post of registered, insured or value-payable postal articles between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the form of declaration to be made by the senders of such postal articles as aforesaid; and

(b) the fees to be charged in respect thereof.

## CHAPTER VII.

### UNDELIVERED POSTAL ARTICLES.

Power to  
make rules  
as to  
disposal of  
undelivered  
postal  
articles.

37. (1) The Governor General in Council may make rules as to the disposal of postal articles which for any reason cannot be delivered (hereinafter referred to as “ undelivered postal articles ”).

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the period during which undelivered postal articles at a post office shall remain in that office; and

<sup>1</sup> This sub-section was added by s. 7 (2) of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

*(Chapter VII.—Undelivered Postal Articles.)*

- (b) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles.

(3) Every undelivered postal article, after being detained at a post office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded, free of further charge, to the post office at which it was posted, for return to the sender, or sent to the office of the Post Master General.

**38.** '(1) Every postal article received at the office of the Post Master General under sub-section (3) of section 37 shall be dealt with as follows :—

Disposal of undelivered postal articles at office of Post Master General.

- (a) if practicable, it shall be redirected and forwarded by post to the addressee; or,
- (b) if it cannot be redirected and forwarded as aforesaid, it shall be opened by some officer, appointed by the Post Master General in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

(2) If the name and address of the sender are so ascertained, it shall be returned by post to the sender, free of further charge or subject to such further charge as the Governor General in Council may, by rule, direct.

**39.** Undelivered postal articles which cannot be disposed of under the foregoing provisions, shall be detained in the office of the Post Master General for such further period (if any), and shall be dealt with in such manner, as the Governor General in Council may, by rule, direct :

Final disposal of undelivered postal articles.

Provided that—

- (a) letters and postcards shall be destroyed;
- (b) money or saleable property, not being of a perishable nature, found in any undelivered postal article, shall be detained for a period of one year in the office of the Post Master General, and, if on the expiration of that period no person has established his right thereto, shall, if money, be credited to the Post Office, and, if saleable property, be sold, the sale-proceeds being credited to the Post Office.

(Chapter VIII.—*Ship Letters.* Chapter IX.—*Money Orders.*)

## CHAPTER VIII.

### SHIP LETTERS.

Duty of master of ship, departing from any port in British India and not being a mail ship, to convey mail bags.

40. The master of a ship, not being a mail ship, about to depart from any port in British India to any port within, or any port or place beyond, British India, shall receive on board any mail bag tendered to him by any officer of the Post Office for conveyance, granting a receipt therefor in such form as the Governor General in Council may, by rule, prescribe, and shall, without delay, deliver the same at the port or place of destination.

Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.

41. (1) The master of a ship arriving at any port in British India shall, without delay, cause every postal article or mail bag on board which is directed to that port and is within the exclusive privilege conferred on the Governor General in Council by section 4, to be delivered either at the post office at that port or to some officer of the Post Office authorized in this behalf by the Post Master General.

(2) If there is on board any postal article or mail bag which is directed to any other place within British India and is within the exclusive privilege aforesaid, the master shall, without delay, report the fact to the officer in charge of the post office at the port of arrival and act according to the directions he may receive from such officer, and the receipt of such officer shall discharge him from all further responsibility in respect of the postal article or mail bag.

Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

42. The Governor General in Council may, by notification in the Gazette of India, declare what gratuities shall be allowed to masters of ships, not being mail ships, in respect of postal articles received by them for conveyance on behalf of the Post Office; and the master of a ship, not being a mail ship, about to leave any port in British India as aforesaid shall, if he receives on board a mail bag for conveyance, be entitled to demand and obtain immediately the amount of the gratuity payable under this section in respect of the mail bag and its contents.

## CHAPTER IX.

### MONEY ORDERS.

Power to maintain money order system and to make

43. (1) The Governor General in Council may provide for the remitting of small sums of money through the Post Office by means of money orders, and may make rules as to such money orders.

## (Chapter IX.—Money Orders.)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe— rules as to remittances thereby.

- (a) the limit of amount for which money orders may be issued;
- (b) the period during which money orders shall remain current;  
and
- (c) the rates of commission or the fees to be charged on money orders or in respect thereof.

44. (1) Subject to such conditions as the Governor General in Council may, by rules made under section 43, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the Post Office by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct. Power for remitter to recall money order or alter name of payee.

(2) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

45. The Governor General in Council may authorize the issue, in such form as may be suitable, of money orders, to be called postal orders or by such other designation as may be deemed appropriate, for certain fixed amounts, and may make rules as to the rates of commission to be charged thereon and the manner in which, and conditions subject to which, they may be issued, paid and cancelled: Power to provide for the issue of postal orders.

Provided that no such order shall be issued for an amount in excess of ten rupees.

46. (1) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the issue and payment through the Post Office of money orders between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements. Power to give effect to arrangements with other countries.

*(Chapter IX.—Money Orders.)*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the manner in which, and the conditions subject to which, such orders may be issued and paid in British India; and
- (b) the rates of commission to be charged thereon.

**Recovery of money order paid to the wrong person.**

47. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

- (a) any amount paid to him in respect of a money order by an officer of the Post Office in excess of what ought to have been paid to him in respect thereof, or
- (b) the amount of a money order paid by an officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable by an officer of the Post Office authorized by the Post Master General in this behalf from the person so neglecting or refusing as if it were an arrear of land-revenue due from him.<sup>1</sup>

**Exemption from liability in respect of money orders.**

48. No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of—

- (a) anything done under any rules made by the Governor General in Council under this Chapter; or
- (b) the wrong payment of a money order caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee; or
- (c) the payment of any money order being refused or delayed by, or on account of, any accidental neglect, omission or mistake, by, or on the part of, an officer of the Post Office, or for any other cause whatsoever other than the fraud or wilful act or default of such officer; or

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<sup>1</sup> See the Revenue Recovery Act, 1890. (1 of 1890).

(Chapter IX.—*Money Orders.* Chapter X.—*Penalties and Procedure.*)

- (d) any wrong payment of a money order after the expiration of one year from the date of the issue of the order; <sup>1</sup>[or
- (e) any wrong payment or delay in payment of a money order beyond the limits of British India by an officer of any post office, not being one established by the Governor General in Council.]

## CHAPTER X.

### PENALTIES AND PROCEDURE.

#### *Offences by Officers of the Post Office.*

49. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post,—
- (a) is in a state of intoxication while so employed, or
  - (b) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered, or
  - (c) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid, or
  - (d) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,
- shall be punishable with fine which may extend to fifty rupees.

50. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.
51. Whoever, being employed to carry or deliver any postal article in course of transmission by post and required while so employed to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered a postal article, which he has not visited or

Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.

Penalty for voluntary withdrawal from duty, without permission or notice, of person employed to carry or deliver mail bags or postal articles.

Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

<sup>1</sup> Clause (e) and the word "or" at the end of clause (d) were added by s. 8 of the Indian Post Office (Amendment) Act, 1912 (3 of 1912).

*(Chapter X.—Penalties and Procedure.)*

delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

52. Whoever, being an officer of the Post Office, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for opening, detaining or delaying postal articles.

53. Whoever, being an officer of the Post Office, contrary to his duty, opens, or causes or suffers to be opened, any postal article in course of transmission by post, or wilfully detains or delays, or causes or suffers to be detained or delayed, any such postal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both :

Provided that nothing in this section shall extend to the opening, detaining or delaying of any postal article under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court.

Penalty for fraud in connection with official marks and for receipt of excess postage.

54. Whoever, being an officer of the Post Office,—

(a) fraudulently puts any wrong official mark on a postal article, or

(b) fraudulently alters, removes or causes to disappear any official mark which is on a postal article, or

(c) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently preparing, altering, secreting or destroying Post Office documents.

55. Whoever, being an officer of the Post Office entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

*(Chapter X.—Penalties and Procedure.)*

56. Whoever, being an officer of the Post Office, sends by post, or puts into any mail bag, any postal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently sending unpaid postal articles.

57. (1) Whoever, being an officer of the Post Office employed in any place in India beyond the limits of British India in which posts are established by the Governor General in Council, or being appointed to sell postage stamps in any such place, commits therein an offence punishable under this Act, shall be punishable either in the place where the offence was committed by any Court or officer duly empowered by the Governor General in Council to take cognizance of offences committed in that place, or in any part of British India by any Court of competent jurisdiction as if the offence had been committed in that part.

Punishment of offences committed in India outside British India.

v of 1898.

(2) The provisions of section 188 of the Code of Criminal Procedure, 1898, shall not apply to any offence referred to in this section.

*Other Offences.*

58. (1) Whoever—

- (a) conveys, otherwise than by post, a letter within the exclusive privilege conferred on the Governor General in Council by section 4, or
- (b) performs any service incidental to conveying, otherwise than by post, any letter within the exclusive privilege aforesaid, or
- (c) sends, or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid, or
- (d) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by post,

Penalty for contravention of section 4.

shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

*(Chapter X.—Penalties and Procedure.)*

Penalty for  
contraven-  
tion of  
section 5.

59. (1) Whoever, in contravention of the provisions of section 5, carries, receives, tenders or delivers letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for  
breach of  
rules under  
section 16.

60. Whoever, being appointed to sell postage stamps,—

(a) takes from any purchaser for any postage stamp or quantity of postage stamps a price higher than that fixed by any rule made under section 16, sub-section (3), clause (a), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; or

(b) commits a breach of any other rule made under section 16, shall be punishable with fine which may extend to two hundred rupees.

Penalty for  
contraven-  
tion of  
section 19  
or 20.

61. (1) Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) The detention in the Post Office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or section 20, shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post.

Penalty for  
defiling or  
injuring  
post office  
letter-boxes.

62. Whoever places in or against any letter-box provided by the Post Office for the reception of postal articles any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

## (Chapter X.—Penalties and Procedure.)

63. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars or in any way disfigures any post office or any letter-box provided by the Post Office for the reception of postal articles, shall be punishable with fine which may extend to fifty rupees.

Penalty for affixing without authority thing to, or painting, tarring or disfiguring, post office or post office letter-box.

64. Whoever, being required by this Act to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

Penalty for making false declaration.

65. Whoever, being the master of a ship,—

(a) fails to comply with the provisions of section 40, or,

(b) without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to comply with the directions of the officer in charge of the post office at a port of arrival, as required by section 41,

Penalty for master of ship failing to comply with the provisions of section 40 or 41.

shall be punishable with fine which may extend to one thousand rupees.

66. (1) Whoever, being either the master of a ship arriving at any port in British India or any one on board, knowingly has in his baggage or in his possession or custody, after the postal articles on board or any of them have been sent to the post office at the port of arrival, any postal article within the exclusive privilege conferred on the Governor General in Council by section 4, shall be punishable with fine which may extend to fifty rupees for every such postal article as aforesaid.

Penalty for detention of letters on board vessel arriving in port.

(2) Whoever, being such master or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the Post Office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

*(Chapter X.—Penalties and Procedure.)*

Penalty for  
detaining  
mails or  
opening  
mail bag.

**67.** Whoever, except under the authority of this Act <sup>1</sup>[or of any other Act for the time being in force] or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court, detains the mails or any postal article in course of transmission by post, or on any pretence opens a mail bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees :

Provided that nothing in this section shall prevent the detention of an officer of the Post Office carrying the mails or any postal article in course of transmission by post, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, 1898, or any other law for the time being in force.

V of 1898.

Penalty for  
retaining  
postal  
articles  
wrongly  
delivered or  
mail bags.

**68.** Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or, when required by an officer of the Post Office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for  
unlawfully  
diverting  
letters.

**69.** Whoever, not being an officer of the Post Office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both :

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

*General.*

Penalty for  
abetting, or  
attempting  
to commit,  
offences  
under Act.

**70.** Whoever abets the commission of any offence punishable under this Act or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

<sup>1</sup> These words were inserted by s. 4 of the Indian Post Office (Amendment) Act, 1921 (15 of 1921).

(Chapter X.—Penalties and Procedure. Chapter XI.—Supplemental.)

71. In every prosecution for an offence in respect of a mail bag or of any postal article sent by post, it shall be sufficient, for the purpose of the charge, to describe the mail bag or postal article as being the property of the Post Office, and it shall not be necessary to prove that the mail bag or postal article was of any value.

72. No Court shall take cognizance of an offence punishable under any of the provisions of sections 51, 53, 54, clauses (a) and (b), 55, 56, 58, 59, 61, 64, 65, 66 and 67 of this Act, unless upon complaint made by order of, or under authority from, the Director General or a Post Master General.

## CHAPTER XI.

### SUPPLEMENTAL.

73. (1) The Governor General in Council may make rules for the management of any zamindari or other district post.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may declare what portions of this Act shall be applicable to zamindari and other district posts and to the persons employed in connection therewith.

74. (1) In addition to the powers hereinbefore conferred, the Governor General in Council may make rules to carry out any of the purposes and objects of this Act.

(2) In making any rule under this Act, the Governor General in Council may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(3) All rules made by the Governor General in Council under this Act shall be published in the Gazette of India and, on such publication, shall have effect as if enacted by this Act.

75. The Governor General in Council may, by notification in the Gazette of India, authorize, either absolutely or subject to conditions, the Director General to exercise any of the powers conferred upon the Governor General in Council by this Act, other than a power to make rules.

(Chapter XI.—Supplemental. *The First Schedule.*—Inland Postage Rates.)

**76.** [Repeal.] *Repealed by the Repealing and Amending Act, 1914 (10 of 1914).*

**Saving.**

**77.** Nothing in this Act shall derogate from or affect the provisions of the East India Company Act, 1780,<sup>1</sup> or any enactment amending <sup>21 Geo. 3,</sup> or extending the same. <sub>c. 70.</sub>

## <sup>2</sup>[THE FIRST SCHEDULE.

### INLAND POSTAGE RATES.

[See section 7.]

#### *Letters.*

For a weight not exceeding two and a half tolas . . . One anna.  
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas . . . One anna.

#### *Post Cards.*

Single . . . Half an anna.  
Reply . . . One anna.

#### *Book, Pattern and Sample Pockets.*

For every five tolas or fraction thereof . . . Half an anna.

#### *Registered Newspapers.*

For a weight not exceeding eight tolas . . . Quarter of an anna.  
For a weight exceeding eight tolas and not exceeding twenty tolas . . . Half an anna.  
For every twenty tolas, or fraction thereof, exceeding twenty tolas . . . Half an anna.

#### *Parcels.*

For a weight not exceeding twenty tolas . . . Two annas.  
For a weight exceeding twenty tolas and not exceeding forty tolas . . . Four annas.  
For every forty tolas, or fraction thereof, exceeding forty tolas . . . Four annas.]

[THE SECOND SCHEDULE.—Enactments repealed.] *Repealed by Section 3 and Schedule II of the Repealing and Amending Act, 1914 (X of 1914).*

<sup>1</sup> Coll. Stat., Vol. I.

<sup>2</sup> This Schedule was temporarily inserted by s. 3 and Sch. I of the Indian Finance Act, 1927 (5 of 1927), and is substituted every year by the annual Finance Acts.

ACT No. IX OF 1898.<sup>1</sup>

[12th August, 1898.]

## An Act to make better provision for the regulation of the importation of live-stock.

WHEREAS it is expedient to make better provision for the regulation of the importation of live-stock which is liable to be affected by infectious or contagious disorders; It is hereby enacted as follows:—

1. (1) This Act may be called the Live-stock Importation Act, 1898. Short title and local extent.  
 (2) It extends to the whole of British India; 2\* \* \*

2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

(a) the expression “infectious or contagious disorders” includes tick-pest, anthrax, glanders, farcy, scabies and any other disease or disorder which may be specified by the Governor General in Council by notification in the Gazette of India; and

(b) “live-stock” includes horses, kine, camels, sheep and any other animal which may be specified by the Governor General in Council by notification in the Gazette of India.

3. (1) The Governor General in Council may, by notification in the Gazette of India, regulate, restrict or prohibit, in such manner and Power to regulate im-  
portation of  
live-stock. to such extent as he may think fit, the bringing or taking, by sea or land, into British India or any specified place therein, of any live-stock which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness or fittings appertaining to live-stock or that may have been in contact therewith.

(2) A notification under sub-section (1) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of customs at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which

VIII of  
1878.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 282; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 362 and 364.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule, Bur. Code, and in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899), s. 3, B. and O. Code, Vol. I.

<sup>2</sup> The word “and” and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power for  
Local Gov-  
ernment to  
make rules.

4. (1) The Local Government may, subject to the control of the Governor (General in Council, make rules for the detention, inspection, disinfection or destruction of imported live-stock, and of fodder, dung, stable-litter, clothing, harness or fittings appertaining to imported live-stock or that may have been in contact therewith, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Protection  
to persons  
acting under  
Act.

5. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

### ACT No. X of 1898.<sup>1</sup>

[2nd September, 1898.]

## An Act to make provision for certain matters connected with Insolvency.

WHEREAS doubts have arisen as to the extent of the power to make rules<sup>2</sup> conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,<sup>3</sup> and whereas it is expedient to remove those doubts and to confirm certain rules which were made by the High Court of Judicature at Bombay on the thirty-first day of July, 1878; It is hereby enacted as follows :—

11 & 1  
Vict., c. 21.

Short title,

1. (1) This Act may be called the Indian Insolvency Rules Act, 1898; 4\* \* \* \*

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 275; for Proceedings in Council, see *ibid*, 1898, Pt. VI, pp. 295 and 336.

<sup>2</sup> For rules as to practice and procedure made by the High Court, Madras, under this Act, see Madras High Court Rules and Orders.

<sup>3</sup> Coll. Statt., Vol. I.

<sup>4</sup> The word "and" and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

2. [*Extent of rule-making power.*] Repealed by s. 127 and Sch. III of the Presidency-towns Insolvency Act, 1909 (3 of 1909).

3. [*Confirmation of rules.*] Repealed by s. 127 and Sch. III of the Presidency-towns Insolvency Act, 1909 (3 of 1909).

4. The Chief Justice of the said Court<sup>1</sup> may, with the previous sanction of the Governor General in Council, pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement, or bonus in lieu thereof, as may be reasonable and proper having regard to the length, nature and conditions of his service.

Official  
assignee's  
allowance  
for pension.

## ACT No. I of 1899.<sup>2</sup>

[13th January, 1899.]

### An Act to amend the Indian Marine Act, 1887.

XIV of  
1887.

WHEREAS it is expedient to amend the Indian Marine Act, 1887 (hereinafter referred to as "the said Act"); It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Marine Act (1887) Amendment Act, 1899; 3\* \* \*

2. In section 2, sub-section (1), clause (a), of the said Act, for the words "the Indian Marine Service" the words "the Royal Indian Marine Service (herein referred to as 'the Indian Marine Service' or 'Her Majesty's Indian Marine Service')'" shall be substituted.

Amendment  
of section 2,  
sub-section  
(1), clause  
(a), Act  
XIV, 1887.

<sup>1</sup> The Court, referred to in the previous section (now repealed), is the High Court of Judicature at Bombay.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 345; for Proceedings in Council, see *ibid*, 1898, Pt. VI, p. 370, and *ibid*, 1899, Pt. VI, p. 3.

<sup>3</sup> The word "and" in sub-section (1), and sub-section (2), were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

Substitution  
of new  
clauses for  
clauses (b),  
(c) and (d),  
section 2,  
sub-section  
(1), Act  
XIV, 1887.

3. In the same section and sub-section of the said Act, for clauses (b), (c) and (d) the following clauses shall be substituted, namely :—

“(b) ‘gazetted officer’ means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,	Chief Engineer,
Lieutenant,	Engineer, or
Sub-Lieutenant,	Assistant Engineer :

(c) ‘warrant-officer’ means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

Assistant Surgeon,	Carpenter,
Gunner,	Clerk, or
Engine-driver, first class :	

(d) ‘petty officer’ means a person who is employed in the Indian Marine Service as—

General Mess Steward,	Carpenter's Crew, first class,
Chief Syrang of Lascars, first class,	Carpenter's Crew, second class,
Chief Syrang of Lascars, second class,	Plumber.
Syrang of Lascars, first class,	General Mess Butler, first class,
Syrang of Lascars, second class,	General Mess Butler, second class,
Sukkani,	Cook, first class,
Tindal of Lascars, first class,	Cook, second class,
Tindal of Lascars, second class,	Ship's Steward,
Engine-driver, second class,	Tide-watcher,
Syrang of Stokers, first class,	Kassab, first class,
Syrang of Stokers, second class,	Kassab, second class,
Tindal of Stokers, first class,	Pilot,
Tindal of Stokers, second class,	Chart-room Attendant,
Carpenter's Mate, first class,	Leadsman, or
Carpenter's Mate, second class.	Interpreter :’’.

Substitution  
of new  
sub-sections  
for  
sub-sections  
(1), (2) and  
(3), section  
53, Act  
XIV, 1887.

4. (1) In section 53 of the said Act, for sub-sections (1), (2) and (3) the following sub-sections shall be substituted, namely :—

“(1) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

(2) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.

(3) Except in the case of an Indian Marine Court convened under section 52, sub-section (2), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander."

(2) To the said section the following sub-sections shall be added, namely :—

" (10) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

(11) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate to every trial, who shall be, if possible, an officer of the Judge Advocate General's Department.

(12) The authority convening an Indian Marine Court shall also appoint a person as Provost-Marshal, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority."

5. After section 70 of the said Act the following shall be added, namely :—

Addition of  
new section  
after section  
70. Act  
XIV, 1887.

*" Supplemental.*

70A. When an Indian Marine vessel is wrecked, lost, destroyed or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction or capture thereof."

Provision  
in case of  
wreck, loss,  
destruction  
or capture  
of Indian  
Marine  
vessel.

## THE INDIAN STAMP ACT, 1899.

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[27th January, 1899.]

**An Act to consolidate and amend the law relating to Stamps.**

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Short title,  
 extent and  
 commence-  
 ment.

1. (1) This Act may be called the Indian Stamp Act, 1899.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 175; for Report of the Select Committee, see *ibid.*, 1898, Pt. V, p. 231; and for Proceedings in Council, see *ibid.*, 1898, Pt. VI, pp. 10 and 278; and *ibid.*, 1899, Pt. VI, p. 5.

The Act has been amended in its application :—

- (1) temporarily to Bombay by the Indian Stamp (Bombay Amendment) Act, 1922 (Bom. Act II of 1922), see Bombay Code, Vol. V, and Bombay Acts I and II of 1926, and II of 1927;
- (2) to Bengal by the Bengal Stamp (Amendment) Act, 1922 (Ben. Act III of 1922);
- (3) temporarily to Assam by the Assam Stamp (Amendment) Act, 1922 (Assam Act III of 1922); see also Assam Act II of 1925;
- (4) to Madras by the Madras Stamp (Amendment) Act, 1922 (Madras Act 6 of 1922), and by the Madras Stamp (Further Amendment) Act, 1923 (Madras Act 6 of 1923);
- (5) to Punjab by the Indian Stamp (Punjab Amendment) Act, 1922 (Punjab Act 8 of 1922).

## (Chapter I.—Preliminary.)

(2) It extends to the whole of British India, inclusive of <sup>1</sup>\* \* \*, British Baluchistan, the Santhal Parganas, and the Pargana of Spiti; and

(3) It shall come into force on the first day of July 1899.

2. In this Act, unless there is something repugnant in the subject or **Definitions** context,—

(1) “banker” includes a bank and any person acting as a banker: “Banker.”

XXXVI of  
1881.

(2) “bill of exchange” means a bill of exchange as defined by the **“Bill of exchange.”** Negotiable Instruments Act, 1881, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money:

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This Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899), s. 3, B. and O. Code, Vol. I.

It has been declared to be in force in the sub-division of Angul under s. 3 of the Angul Laws Regulation, 1913 (3 of 1913), B. and O. Code, Vol. I; in the Pargana of Manpur with modifications and restrictions under s. 2 of the Manpur Laws Regulation, 1926 (II of 1926).

Under s. 2 of the Assam Frontier Tracts Regulation, 1880 (II of 1880), it has been declared that the Act shall cease to be in force in the Garo Hills, the Khasi and Jaintia Hills and the Naga Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hills Tract and the Dibrugarh Frontier Tract. Under ss. 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), the Act was extended to the places abovementioned with the proviso that it shall not apply to persons being natives of these areas who are assessed to house-tax instead of land-revenue, *see* Gazette of India, 1903, Pt. I, p. 175. Similarly it has been declared that the Act shall cease to be in force in the Lushai Hills—*see* Gazette of India, 1904, Pt. I, p. 93; and under ss. 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), it was extended to the Lushai Hills with the proviso that it shall not apply to natives of the district except in such places and cases as may be withdrawn from the operation of the proviso—*see* Gazette of India, 1904, Pt. I, p. 913, and Assam Gazette, 1904, Pt. II, p. 787. Under s. 3 (a) of the Scheduled Districts Act, 1874, it has been declared in force in the Scheduled Districts of Ganjam, Vizagapatam, and East Godavary, *see* notification No. 121, dated 25th April 1927, Fort St. George Gazette, 1927, Pt. I, p. 684.

This Act is to be deemed not to extend or to have ever extended to the Arakan Hill District, *see* the Arakan Hill District Laws Regulation, 1901 (II of 1901).

<sup>1</sup> The words “Upper Burma” were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

(Chapter I.—Preliminary.)

“ Bill of  
exchange  
payable on  
demand.”

(3) “ bill of exchange payable on demand ” includes—

(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods ; and

(c) a letter of credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn :

“ Bill of  
lading.”

(4) “ bill of lading ” includes a “ through bill of lading,” but does not include a mate’s receipt :

“ Bond.”

(5) “ bond ” includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another :

“ Charge-  
able.”

(6) “ chargeable ” means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed :

“ Cheque.”

(7) “ cheque ” means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand :

## (Chapter I.—Preliminary.)

(8) "Chief Controlling Revenue-authority" means—

" Chief  
Controlling  
Revenue-  
authority."

(a) in the Presidency of Fort St. George, <sup>1</sup>[the Presidency of Fort William in Bengal] and the <sup>2</sup>*territories respectively under the administration of the Lieutenant-Governors of* <sup>3</sup>[Bihar and Orissa] and the North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue;

(b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner;

(c) in Sindh—the Commissioner;

(d) in the <sup>4</sup>Punjab and Burma, including Upper Burma—the Financial Commissioner; and

(e) elsewhere—the <sup>4</sup>Local Government or such officer as the Local Government may, by notification<sup>5</sup> in the official Gazette, appoint in this behalf:

(9) "Collector"—

" Collector."

(a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a district; and

<sup>1</sup> These words were inserted by s. 2 and Sch. of the Amending Act, 1916 (13 of 1916).

<sup>2</sup> For the words "territories respectively under the administration of the Lieutenant-Governors of Bihar and Orissa and the North-Western Provinces and the Chief Commissioner of Oudh" the words "territories under the administration of the Local Government of Bihar and Orissa" are to be deemed as having been substituted; see United Provinces Board of Revenue Act, 1922 (U. P. Act XII of 1922), s. 2 and Schedule.

<sup>3</sup> These words were substituted for the word "Bengal" by s. 2 and Sch. of the Amending Act, 1916 (13 of 1916).

<sup>4</sup> In the North-West Frontier Province, for "Punjab" read "North-West Frontier Province," for "Financial Commissioner" read "Revenue Commissioner," for "Local Government" read "Chief Commissioner", and for "official Gazette" read "North-West Frontier Gazette"—see s. 6 (1) (a), (e), (b) and (g), respectively, of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N: W. Code.

<sup>5</sup> For instance, of such notification issued in British Baluchistan, see Gazette of India, 1899, Pt. II, p. 920; in Ajmer-Merwara, see Gazette of India, 1899, Pt. II, p. 506; in Burma, see Burma Gazette, 1905, Pt. I, p. 626; in Madras, see Mad. R. and O.; in Assam, see Assam Gazette, 1912, Pt. I, p. 95.

## (Chapter I.—Preliminary.)

(b) includes a Deputy Commissioner and any officer whom the Local Government may, by notification<sup>1</sup> in the official Gazette, appoint in this behalf :

“Conveyance.”

(10) “conveyance” includes a conveyance on sale and every instrument by which property, whether moveable or immoveable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I :

“Duly stamped.”

(11) “duly stamped”, as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in British India :

“Executed” and “execution”.

(12) “executed” and “execution”, used with reference to instruments, mean “signed” and “signature” :

“Impressed stamp.”

(13) “impressed stamp” includes—

- (a) labels affixed and impressed by the proper officer, and
- (b) stamps embossed or engraved on stamped paper :

“Instrument.”

(14) “instrument” includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded :

“Instrument of partition.”

(15) “instrument of partition” means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition :

“Lease.”

(16) “lease” means a lease of immoveable property, and includes also—

- (a) a pattá ;
- (b) a kabūliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immoveable property ;

<sup>1</sup> For notification by the Chief Commissioner of Ajmer-Merwara, declaring that “Collector” includes Assistant Commissioners of the Province, see Gazette of India, 1902, Pt. II, p. 501.

For notification appointing all Assistant Commissioners and Extra Assistant Commissioners who are sub-divisional officers, as Collectors under this Act, see Central Provinces Gazette, 1911, Pt. I, p. 433.

For notification appointing the officer in charge of the Mercara Treasury as a Collector in Coorg, see Coorg District Gazette, 1925, Pt. I, p. 76.

## (Chapter I.—Preliminary.)

(c) any instrument by which tolls of any description are let;

(d) any writing on an application for a lease intended to signify that the application is granted :

<sup>1</sup>[16A] “ marketable security ” means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom :]

(17) “ mortgage-deed ” includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property :

(18) “ paper ” includes vellum, parchment or any other material on which an instrument may be written.

(19) “ policy of insurance ” includes—

- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;
- (b) a life-policy and any policy insuring any person against accident or sickness, and any other personal insurance ;<sup>2</sup>

“P  
insurance.”

2\* \* \* \* \*

(20) “ policy of sea-insurance ” or “ sea-policy ”—

- (a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel; and

“ Policy of  
sea-insur-  
ance” or  
“sea-policy”.

- (b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

<sup>1</sup> Cl. (16A) was inserted by s. 2 of the Indian Stamp (Amendment) Act, 1904 (15 of 1904).

<sup>2</sup> The word “and” and sub-clause (c) were repealed by s. 2 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

*(Chapter I.—Preliminary.)*

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance :

**“Power-of-attorney.”**

(21) “ power-of-attorney ” includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it :

**“Promissory note.”**

(22) “ promissory note ” means a promissory note as defined by the Negotiable Instruments Act, 1881 ;

XXVI of  
1881.

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen :

**“ Receipt.”**

(23) “ receipt ” includes any note, memorandum or writing—

- (a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or
- (b) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or
- (c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or
- (d) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person : and

**“Settlement.”**

(24) “ settlement ” means any non-testamentary disposition, in writing, of moveable or immoveable property made—

- (a) in consideration of marriage,
- (b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or
- (c) for any religious or charitable purpose ;

(Chapter I.—Preliminary. Chapter II.—Stamp-duties.)

and includes an agreement in writing to make such a disposition  
<sup>1</sup>[and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition].

## CHAPTER II.

### STAMP-DUTIES.

#### *A.—Of the Liability of Instruments to Duty.*

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

*Instruments chargeable with duty.*

- (a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July 1899;
- (b) every bill of exchange <sup>2</sup>[payable otherwise than on demand] <sup>3</sup> \* or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India; and
- (c) every instrument (other than a bill of exchange, <sup>3</sup> \* or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India and is received in British India :

Provided that no duty shall be chargeable in respect of—

- (I) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

<sup>1</sup> These words were added by s. 2 of the Indian Stamp (Amendment) Act, 1904 (15 of 1904).

<sup>2</sup> These words were inserted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>3</sup> The word "cheque" was omitted by s. 5, *ibid*.

*(Chapter II.—Stamp-duties.)*

- (2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894,<sup>1</sup> or under Act XIX of 1838,<sup>2</sup> or the Indian Registration of Ships Act, 1841, as amended by subsequent Acts. 57 & 58  
Vict., c. 60.  
X of 1841.

Several instruments used in single transaction of sale, mortgage or settlement.

4. (1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument :

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruments relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Policies of sea-insurance.

7. (1) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the <sup>1</sup>Merchant Shipping Act, 1894) shall be valid unless the same is expressed in a sea-policy. 57 & 58  
Vict., c. 60.

<sup>1</sup> Coll. Stat., Vol. II.

<sup>2</sup> Bom. Code.

## (Chapter II.—Stamp-duties.)

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

8. (1) Notwithstanding anything in this Act, any local authority <sup>Bonds, debentures or other securities issued on loans under Act XI, 1879.</sup> raising a loan under the provisions of the Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of 1[one per centum] on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Governor General in Council.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

<sup>1</sup> These words were substituted for the words "eight annas per centum" by s. 2 of the Indian Stamp (Amendment) Act, 1910 (6 of 1910).

*(Chapter II.—Stamp-duties.)*

Power to  
reduce, remit  
or compound  
duties.

9. The Governor General in Council may, by rule or order published in the Gazette of India,—

- <sup>1</sup>(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and
- (b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

*B.—Of Stamps and the mode of using them.*

Duties how  
to be paid.

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

- (a) according to the provisions herein contained; or
- (b) when no such provision is applicable thereto—as the Governor General in Council may by rule direct.

(2) The rules<sup>2</sup> made under sub-section (1) may, among other matters, regulate,—

- (a) in the case of each kind of instrument—the description of stamps which may be used;
- (b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;
- (c) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

<sup>1</sup> For the general notification reducing and remitting such duties, see Gazette of India, 1909, Pt. I, p. 597, and Gen. R. and O., Vol. III, pp. 315-338.

<sup>2</sup> For rules as to the use of impressed and adhesive stamps, see Notification No. C. 63 Stamps/25, dated 5th May 1925, Gen. R. and O., Vol. III, p. 338.

## (Chapter II.—Stamp-duties.)

11. The following instruments may be stamped with adhesive stamps, Use of  
adhesive  
stamps.  
namely :—

(a) instruments chargeable with the duty of one anna <sup>1</sup>[or half an anna], except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange, <sup>2</sup>\* and promissory notes drawn or made out of British India;

<sup>3</sup>(c) entry as an advocate, vakil or attorney on the roll of a High Court;

(d) notarial acts; and

(e) transfers by endorsement of shares in any incorporated company or other body corporate.

12. (1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, Cancellation  
of adhesive  
stamps. when affixing such stamp, cancel the same so that it cannot be used again;

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument. Instruments  
stamped with  
impressed  
stamps how  
to be written.

<sup>1</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

<sup>2</sup> The word "cheques" was omitted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>3</sup> As to the enrolment of legal practitioners in the North-West Frontier Province, see s. 9 of the North-West Frontier Province Law and Justice Regulation, 1901 (7 of 1901), P. and N.-W. Code

## (Chapter II.—Stamp-duties.)

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section 13 or 14 deemed unstamped.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the Governor General in Council may by rule prescribe.

*C.—Of the time of stamping Instruments.*

Instruments executed in British India.

17. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments other than bills and notes executed out of British India.

18. (1) Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, <sup>1</sup> \* or promissory note, may be stamped within three months after it has been first received in British India.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

<sup>1</sup> The word "cheque" was omitted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

## (Chapter II.—Stamp-duties.)

19. The first holder in British India of any bill of exchange <sup>Bills and notes drawn out of British India.</sup> <sup>1</sup>[payable otherwise than on demand] <sup>2</sup> \* or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same :

Provided that,—

(a) if, at the time any such bill of exchange, <sup>2</sup> \* or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled :

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

## D.—Of Valuations for Duty.

20. (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of British India, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument. <sup>Conversion of amount expressed in foreign currencies.</sup>

(2) The Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe<sup>3</sup> a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument. <sup>Stock and marketable securities how to be valued.</sup>

<sup>1</sup> These words were inserted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>2</sup> The word "cheque" was omitted by s. 5, *ibid.*

<sup>3</sup> For notification prescribing such rates, see No. C. No. 125-Stamps/25, dated 18th September 1925—Gazette of India, 1925, Pt. I, p. 886.

## (Chapter II.—Stamp-duties.)

Effect of  
statement of  
rate of  
exchange or  
average  
price.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments  
reserving  
interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Certain  
instruments  
connected  
with  
mortgages of  
marketable  
securities to  
be charge-  
able as  
agreements.

1[23A. (1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under [Article No. 5 (c)]<sup>2</sup> of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.]

How trans-  
fer in consi-  
deration of  
debt, or  
subject to  
future pay-  
ment, etc.,  
to be charg-  
ed.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty :

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

<sup>1</sup> Section 23A was added by s. 3 of the Indian Stamp (Amendment) Act, 1904 (15 of 1904).

<sup>2</sup> These words and figure were substituted for the words and figure "Article No. 5 (b)" by s. 3 of the Indian Stamp (Amendment) Act, 1912 (1 of 1912).

*(Chapter II.—Stamp-duties.)*

*Explanation.*—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale :

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

*Illustrations.*

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

Valuation in case of annuity, etc.

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount ;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due ; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

## (Chapter II.—Stamp-duties.)

Stamp where  
value of sub-  
ject-matter  
is indeter-  
minate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient :

<sup>1</sup> [Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(a) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year ;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease :]

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

Facts affect-  
ing duty to  
be set forth  
in instru-  
ment.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as  
to duty in  
case of cer-  
tain con-  
veyances.

28. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned

<sup>1</sup> This proviso was substituted for the first proviso by s. 4 of the Indian Stamp (Amendment) Act, 1904 (15 of 1904).

## (Chapter II.—Stamp-duties.)

in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers :

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty

*(Chapter II.—Stamp-duties.)*

equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

*E.—Duty by whom payable.*

Duties by  
whom pay-  
able.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following Articles of Schedule I, namely :—

No. 2. (Administration Bond),

<sup>1</sup>[No. 6. (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),]

No. 13. (Bill of Exchange),

No. 15. (Bond),

No. 16. (Bottomry Bond),

No. 26. (Customs Bond),

No. 27. (Debenture),

No. 32. (Further Charge),

No. 34. (Indemnity-Bond),

No. 40. (Mortgage-Deed),

No. 49. (Promissory-Note),

No. 55. (Release),

No. 56. (Respondentia Bond),

No. 57. (Security Bond or Mortgage-Deed),

No. 58. (Settlement),

No. 62 (a). (Transfer of shares in an incorporated company or other body corporate),

No. 62 (b). (Transfer of Debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

<sup>1</sup> These words and figure were substituted for the words and figure "No. 6. (Agreement to mortgage)" by s. 5 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

## (Chapter II.—Stamp-duties.)

No. 62 (c). (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument :

- 1[(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance ;
- (bb) in the case of a policy of fire-insurance—by the person issuing the policy ;]
- (c) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee : in the case of a lease or agreement to lease—by the lessee or intended lessee :
- (d) in the case of a counterpart of a lease—by the lessor :
- (e) in the case of an instrument of exchange—by the parties in equal shares :
- (f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates : and,
- (g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Obligation to give receipt in certain cases.

2[Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

<sup>1</sup> These clauses were substituted for cl. (b) by s. 4 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

<sup>2</sup> This paragraph was added by s. 5, *ibid.*

*(Chapter III.—Adjudication as to Stamps.)*

## CHAPTER III.

## ADJUDICATION AS TO STAMPS.

**Adjudication  
as to proper  
stamp.**

**31.** (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

- (a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and
- (b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

**Certificate  
by Collector.**

**32.** (1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

- (a) the Collector determines that it is already fully stamped, or
- (b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

<sup>1</sup> For modification of provisions, see Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924).

(Chapter III.—Adjudication as to Stamps. Chapter IV.—Instruments not duly stamped.)

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorize the Collector to endorse—

- (a) any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;
- (b) any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or
- (c) any instrument chargeable with the duty of one anna <sup>1</sup>[or half an anna] or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

## CHAPTER IV.

### INSTRUMENTS NOT DULY STAMPED.

33. (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

Examination  
and  
impounding  
of instru-  
ments.

<sup>1</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

*(Chapter IV.—Instruments not duly stamped.)*

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;

V of 1898.

(b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

(a) the Governor General in Council may determine<sup>1</sup> what offices shall be deemed to be public offices ; and

(b) the Local Government may determine who shall be deemed to be persons in charge of public offices.

Special provision as to unstamped receipts.

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or

<sup>1</sup> For the purposes of this section, the office of a returning officer appointed for the purposes of an election to a legislative body constituted under the Government of India Act is not a public office, see Gazette of India, 1920, Pt. I, p. 2136, and Vol. III of the Gen. R. and O., p. 349.

*(Chapter IV.—Instruments not duly stamped.)*

authenticated by any such person or by any public officer, unless such instrument is duly stamped :

Provided that—

- <sup>1</sup>(a) any such instrument not being an instrument chargeable with a duty of one anna <sup>2</sup>[or half an anna] only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;
- (b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it ;
- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped ;
- (d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;
- (e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

V of 1898.

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<sup>1</sup> For modification of provisions in respect of promissory note referred to in this clause or in sub-section (1) of section 40 or in section 41 which is an instrument to which Act 13 of 1924 applies, see s. 3 of that Act.

<sup>2</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

*(Chapter IV.—Instruments not duly stamped.)*

Admission  
of instru-  
ment where  
not to be  
questioned.

**36.** Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission  
of improper-  
ly stamped  
instruments.

**37.** The Governor General in Council may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments  
impounded  
how dealt  
with.

**38.** (1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

Collector's  
power to

paid  
rec-  
sub-  
(1).

**39.** (1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, 1 \* \* , refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

Sp  
v

Collector's  
power to  
stamp  
instruments  
impounded.

**240.** (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty of one anna <sup>3</sup>[or half an anna] only or a bill of exchange or promissory note, he shall adopt the following procedure :—

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement

<sup>1</sup> Certain words were omitted by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

<sup>2</sup> See footnote 1 on page 83, ante.

<sup>3</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

*(Chapter IV.—Instruments not duly stamped.)*

thereon that it is duly stamped, or that it is not so chargeable, as the case may be :

- (b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, <sup>1</sup>[an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees :

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

**41.** If any instrument chargeable with duty and not duly stamped, Instruments not being an instrument chargeable with a duty of one anna <sup>3</sup>[or half an anna] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

**42.** (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, Endorsement of instruments on which duty has been paid under section 35, 40 or 41.

<sup>1</sup> These words were inserted by s. 6 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

<sup>2</sup> See footnote 1 on page 83, ante.

<sup>3</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906).

*(Chapter IV.—Instruments not duly stamped.)*

the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate ;

(b) nothing in this section shall affect the <sup>1</sup>Code of Civil Procedure, section 144, clause 3.

Prosecution  
for offence  
against  
Stamp-law.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument :

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Persons pay-  
ing duty or  
penalty may  
recover same  
in certain  
cases.

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Schedule I, Order XIII, rule 9.

*(Chapter IV.—Instruments not duly stamped.)*

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

45. (1) Where any penalty is paid under section 35 or section 40, the <sup>1</sup>Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

Power to Revenue-authority to refund penalty or excess duty in certain cases.

(2) Where, in the opinion of the <sup>1</sup>Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

46. (1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

Non-liability for loss of instruments sent under section 38.

(2) When any instrument is about to be so sent; the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

47. When any bill of exchange <sup>2</sup>[or promissory note] chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore

Power of payer to stamp bills and promissory notes received by him unstamped.

<sup>1</sup> In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—see s. 6 (1) (d) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

<sup>2</sup> These words were substituted for the words "promissory note or cheque" by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

(Chapter IV.—*Instruments not duly stamped.* Chapter V.—*Allowances for stamps in certain cases.*)

provided, may pay the sum payable upon such bill <sup>1</sup>[or note], and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill <sup>1</sup>[or note] shall, so far as respects the duty, be deemed good and valid :

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill <sup>1</sup>[or note].

Recovery of  
duties and  
penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

## CHAPTER V.

### ALLOWANCES FOR STAMPS IN CERTAIN CASES.

Allowance  
for spoiled  
stamps.

49. Subject to such rules as may be made by the <sup>2</sup>[Local Government] as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

- (a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person :
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :
- (c) in the case of bills of exchange <sup>3</sup>[payable otherwise than on demand] <sup>4</sup>\* or promissory notes—

(1) the stamp on <sup>5</sup>[any such bill of exchange] <sup>4</sup>\* \*  
signed by or on behalf of the drawer which has not

<sup>1</sup> These words were substituted for the words "note or cheque" by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>2</sup> These words were substituted for the words "Governor General in Council" by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

<sup>3</sup> These words were inserted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>4</sup> The words "cheques" and "or cheque" were omitted by s. 5, *ibid.*

<sup>5</sup> These words were substituted for the words "any bill of exchange" by s. 5, *ibid.*

*(Chapter V.—Allowances for stamps in certain cases.)*

been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange <sup>1</sup>\* to be afterwards written thereon:

- (2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands:
- (3) the stamp used or intended to be used for <sup>2</sup>[any such bill of exchange], <sup>1</sup> \* or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange <sup>1</sup> \* , may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange, <sup>1</sup> \* or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, \* <sup>1</sup> or note:
- (4) the stamp is used for an instrument executed by any party thereto which—
  - (1) has been afterwards found to be absolutely void in law from the beginning:
  - (2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended:
  - (3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed:

<sup>1</sup> The word "cheque" and the words "or cheque" were omitted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>2</sup> These words were substituted for the words "any bill of exchange" by s. 5, *ibid.*

*(Chapter V.—Allowances for stamps in certain cases.)*

- (4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :
- (5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :
- (6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :
- (7) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing a stamp of not less value :
- (8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

*Explanation.*—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

Application  
for relief  
under sec-  
tion 49 when  
to be made.

50. The application for relief under section 49 shall be made within the following periods, that is to say,—

- (1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument :
- (2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :

*(Chapter V.—Allowances for stamps in certain cases.)*

- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Provided that,—

- (a) when the spoiled instrument has been for sufficient reasons sent out of British India, the application may be made within six months after it has been received back in British India :
- (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

51. The <sup>1</sup>Chief Controlling Revenue-authority <sup>2</sup>[or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf] may, without limit of time, make allowance for stamped papers used for printed forms of instruments <sup>3</sup>[by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said <sup>3</sup>[banker,] company or body corporate : provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance in case of printed forms no longer required by Corporations.

52. (a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty ; or

Allowance for misused stamps.

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13 ;

<sup>1</sup> In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—see s. 6 (1) (d) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

<sup>2</sup> These words were inserted by Sch., Part I, of the Decentralization Act, 1914 (4 of 1914).

<sup>3</sup> These words were inserted by s. 6 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

*(Chapter V.—Allowances for stamps in certain cases.)*

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance  
for spoiled or  
misused  
stamps how  
to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

- (a) other stamps of the same description and value; or,
- (b) if required and he thinks fit, stamps of any other description to the same amount in value; or,
- (c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

Allowance  
for stamps  
not required  
for use.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

- (a) that such stamp or stamps were purchased by such person with a *bonâ fide* intention to use them; and
- (b) that he has paid the full price thereof; and
- (c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Allowance  
on renewal  
of certain  
debentures,

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture the value of the stamp on the original or on the new debenture, whichever shall be less :

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the Governor General in Council may direct.

(Chapter V.—*Allowances for stamps in certain cases.* Chapter VI.—*Reference and Revision.*)

*Explanation.*—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes :—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and
- (d) the alteration of the rate of interest or the dates of payment thereof.

## CHAPTER VI.

### REFERENCE AND REVISION.

56. (1) The powers exercisable by a Collector under Chapter IV and Chapter V <sup>1</sup>[and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the <sup>2</sup>Chief Controlling Revenue-authority.

Control of,  
and state-  
ment of case  
to, Chief  
Controlling  
Revenue-  
authority.

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the <sup>2</sup>Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

57. (1) The <sup>2</sup>Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon;—

Statement  
of case by  
Chief Con-  
trolling  
Revenue-  
authority to  
High Court,  
or Chief  
Court.

- (a) if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council or the

<sup>1</sup> These words and figures were inserted by s. 7 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

<sup>2</sup> In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—see s. 6 (1) (d) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

*(Chapter VI.—Reference and Revision.)*

Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be ;

<sup>1</sup>[(b) (i) if it arises in Agra or in Ajmer—to the High Court of Judicature at Allahabad ;

(ii) if it arises in Oudh—to the Chief Court of Oudh ;]

<sup>2</sup>[(bb) if it arises in the territories for the time being administered by the Lieutenant-Governor of Bihar and Orissa—to the High Court of Judicature at Patna ;]

(c) if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab or in British Baluchistan—to the <sup>3</sup>[High Court of Judicature at Lahore] ;

(d) if it arises in the Central Provinces—to the High Court of Judicature at Bombay ;

<sup>4</sup>if it arises in Burma—to the <sup>5</sup>[High Court of Judicature at Rangoon] ;

(e) if it arises in any other part of British India—to the High Court of Judicature at Fort William.

(2) Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

Power of High Court or Chief Court to call for further particulars as to case stated.

**58.** If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of case stated.

**59.** (1) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

<sup>1</sup> Clause (b) was substituted by s. 2 and Schedule of the Oudh Courts (Supplementary) Act, 1925 (32 of 1925).

<sup>2</sup> This clause was inserted by s. 2 and Schedule of the Amending Act, 1916 (13 of 1916).

<sup>3</sup> These words were substituted by the Repealing and Amending Act, 1919 (18 of 1919).

<sup>4</sup> This clause was inserted by s. 47 and Sch. I of the Lower Burma Courts Act, 1900 (6 of 1900), Bur. Code.

<sup>5</sup> These words were substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

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(2) The Court shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

60. (1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the <sup>1</sup>Chief Controlling Revenue-authority, he would, under section 57, refer the same.

Statement of case by other Courts to High Court or Chief Court.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the <sup>1</sup>Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

61. (1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding, under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

V of 1898.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment

<sup>1</sup> In the North-West Frontier Province, the Chief Controlling Revenue-authority is the Revenue Commissioner—see s. 6 (1) (d) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

(Chapter VI.—*Reference and Revision.* Chapter VII.—*Criminal Offences and Procedure.*)

of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that—

- (a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty ;
- (b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

## CHAPTER VII.

### CRIMINAL OFFENCES AND PROCEDURE.

162. (1) Any person—

- (a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or

Penalty for  
executing,  
etc., instru-  
ment not  
duly  
stamped.

<sup>1</sup> For modification of provisions, see Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924), s. 3.

*(Chapter VII.—Criminal Offences and Procedure.)*

in any manner negotiating, any bill of exchange <sup>1</sup>[payable otherwise than on demand] <sup>2</sup>\* or promissory note without the same being duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped;

shall for every such offence be punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

**63.** Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees. Penalty for failure to cancel adhesive stamp.

**64.** Any person who, with intent to defraud the Government,— Penalty for omission to comply with provisions of section 27.

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

<sup>1</sup>These words were inserted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>2</sup>The word "cheque" was omitted by s. 5, *ibid.*

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Penalty for refusal to give receipt, and for devices to evade duty on receipts.

65. Any person who,—

- (a) being required under section 30 to give a receipt, refuses or neglects to give the same ; or
- (b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered ;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy or making one not duly stamped.

66. Any person who—

- (a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance ; or
- (b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy ;

shall be punishable with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

67. Any person drawing or executing a bill of exchange <sup>1</sup>[payable otherwise than on demand] or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Penalty for post-dating bills, and for other devices to defraud the revenue.

68. Any person who—

- (a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made ; or

<sup>1</sup> These words were inserted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

*(Chapter VII.—Criminal Offences and Procedure.)*

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or.

(c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

69. (a) Any person appointed to sell stamps who disobeys any rule made under section 74; and

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

(b) any person not so appointed who sells or offers for sale any stamp (other than a one-anna <sup>1</sup>[or half an anna] adhesive stamp);

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

70. (1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

Institution and conduct of prosecutions.

(2) The <sup>2</sup>Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

71. No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Jurisdiction of Magistrates.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

Place of trial.

<sup>1</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

<sup>2</sup> In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—see s. 6 (1) (d) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

## (Chapter VIII.—Supplemental Provisions.)

## CHAPTER VIII.

## SUPPLEMENTAL PROVISIONS.

Books, etc.,  
to be open to  
inspection.

**73.** Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Powers to  
make rules  
relating to  
sale of  
stamps.

**74.** The Local Government, subject to the control of the Governor General in Council, may make <sup>1</sup>rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons :

Provided that such rules shall not restrict the sale of one-anna <sup>2</sup>[or half an anna] adhesive stamps.

Power to  
make rules  
generally to  
carry out  
Act.

**75.** The Governor General in Council may make rules<sup>3</sup> to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Publication  
of rules.

**76.** (1) All rules made under this Act, other than rules made under section 74, shall be published in the Gazette of India, and all rules made under section 74 shall be published in the local Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

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<sup>1</sup> For such rules, see different Local Rules and Orders.

<sup>2</sup> These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906).

<sup>3</sup> For instance of rules made under this section in conjunction with s. 10, see Gazette of India, 1899, Pt. I, p. 82, and Gen. R. and O.

For rules as to payment of allowances in respect of spoiled or misused stamps, or on the renewal of debentures, see Gen. R. and O.

*(Chapter VIII.—Supplemental Provisions.)*

1[**76A.** The Local Government may, by notification in the local official Gazette, delegate— Delegation of certain powers.

(a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority; and

(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1) (2), 56 (1) and 70 (2) to such subordinate Revenue-authority as may be specified in the notification.]

**77.** Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees. Saving as to court-fees.

**78.** Every Local Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy. Act to be translated and sold cheaply.

**79.** [*Repeal.*] *Repealed by s. 2 and Schedule II of the Repealing and Amending Act, 1914 (10 of 1914).*

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<sup>1</sup> This section was inserted by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I.

## STAMP-DUTY ON INSTRUMENTS.

(See section 3.)

Description of Instrument.	Proper Stamp-duty.
<b>1. ACKNOWLEDGMENT</b> of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	One anna.
<b>2. ADMINISTRATION-BOND</b> , including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889,— X of 1865. V of 1873. V of 1881. VII of 1889.	
(a) where the amount does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for such amount.
(b) in any other case . . . . .	Five rupees.
<b>3. ADOPTION-DEED</b> , that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	Ten rupees.
<b>ADVOCATE.</b> See ENTRY AS AN ADVOCATE (No. 30).	
<b>4. AFFIDAVIT</b> , including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	One rupee.
<i>Exemptions.</i>	
Affidavit or declaration in writing when made—	
(a) as a condition of enlistment under the Indian Articles of War ;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
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## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b><sup>1</sup>[5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—</b>	
(a) if relating to the sale of a bill of exchange .	Two annas.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate ;	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the security or share.
(c) if not otherwise provided for . . . .	Eight annas.
<b><sup>2</sup>Exemptions.</b>	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ;	
(b) made in the form of tenders to the Government of India for or relating to any loan ;	
(c) made under the European Vagrancy Act, 1874, section 17.]	
<b>AGREEMENT TO LEASE. See LEASE (No. 35).</b>	
<b><sup>3</sup>[6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to —</b>	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of moveable property,	
where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement ;	The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.

IX of 1874;

<sup>1</sup> This was substituted by s. 3 (I) of the Indian Stamp (Amendment) Act, 1910 (6 of 1910).

<sup>2</sup> For the consolidated Notification reducing and remitting duties, see Gazette of India, 1909, Pt. I, p. 597, and Genl. R. and O., Vol. III, p. 315.

<sup>3</sup> Substituted for the original article by s. 8 (i) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<p><b>6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE—contd.</b></p> <p>(b) if such loan or debt is repayable not more than three months from the date of such instrument.</p> <p><i>Exemption.</i> Instrument of pawn or pledge of goods if unattested.]</p>	<p>Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.</p>
<p><b>7. APPOINTMENT IN EXECUTION OF A POWER,</b> whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.</p>	<p>Fifteen rupees.</p>
<p><b>8. APPRAISEMENT OR VALUATION</b> made otherwise than under an order of the Court in the course of a suit—</p> <p>(a) where the amount does not exceed Rs. 1,000</p> <p>(b) in any other case . . . . .</p>	<p>The same duty as a Bond (No. 15) for such amount.</p> <p>Five rupees.</p>
<p><i>Exemptions.</i></p> <p>(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.</p> <p>(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.</p> <p><b>9. APPRENTICESHIP-DEED,</b> including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).</p>	<p>Five rupees.</p>
<p><i>Exemption.</i> Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.</p>	
<p><b>10. ARTICLES OF ASSOCIATION OF A COMPANY</b></p> <p><i>Exemption.</i> Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.</p> <p><i>See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).</i></p>	<p>Twenty-five rupees.</p>

XIX of 1850,

VI of 1882.

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>11. ARTICLES OF CLERKSHIP</b> or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Two hundred and fifty rupees.
<b>ASSIGNMENT.</b> See CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.	
<b>ATTORNEY.</b> See ENTRY AS AN ATTORNEY (No. 30), and POWER-OF-ATTORNEY (No. 48).	
<b>AUTHORITY TO ADOPT.</b> See ADOPTION-DEED (No. 3).	
<b>12. AWARD</b> , that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case . . . . .	Five rupees.
<i>Exemption.</i>	
Award under the <sup>1</sup> Bombay District Municipal Act, 1873, section 81, or the <sup>2</sup> Bombay Hereditary Offices Act, 1874, section 18.	
<b>13. BILL OF EXCHANGE</b> [as defined by s. 2 (2) <sup>3</sup> * * *], not being a BOND, bank-note or currency-note—	
* * * * *	* * *

Bom. Act  
VI of 1873.  
Bom. Act  
III of 1874.

<sup>1</sup> See now the Bombay District Municipal Act, 1901 (Bom. Act III of 1901), Bom. Code.

<sup>2</sup> Bom. Code.

<sup>3</sup> The word, figure and brackets "and (3)" were omitted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

<sup>4</sup> The entry (a) was omitted by s. 5, *ibid.*

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.				Proper Stamp-duty.		
				If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
				Rs. a. p.	Rs. a. p.	Rs. a. p.
<b>13. BILL OF EXCHANGE—contd.</b>						
<sup>1</sup> [(b) where payable otherwise than on demand, but not more than one year after date or sight—						
			Rs.			
if the amount of the bill or note does not exceed . . . . .			200	0 3 0	0 2 0	0 1 0
if it exceeds Rs. 200 and does not exceed . . . . .			400	0 6 0	0 3 0	0 2 0
Ditto	400	ditto	600	0 9 0	0 5 0	0 3 0
Ditto	600	ditto	800	0 12 0	0 6 0	0 4 0
Ditto	800	ditto	1,000	0 15 0	0 8 0	0 5 0
Ditto	1,000	ditto	1,200	1 2 0	0 9 0	0 6 0
Ditto	1,200	ditto	1,600	1 8 0	0 12 0	0 8 0
Ditto	1,600	ditto	2,500	2 4 0	1 2 0	0 12 0
Ditto	2,500	ditto	5,000	4 8 0	2 4 0	1 8 0
Ditto	5,000	ditto	7,500	6 12 0	3 6 0	2 4 0
Ditto	7,500	ditto	10,000	9 0 0	4 8 0	3 0 0
Ditto	10,000	ditto	15,000	13 8 0	6 12 0	4 8 0
Ditto	15,000	ditto	20,000	18 0 0	9 0 0	6 0 0
Ditto	20,000	ditto	25,000	22 8 0	11 4 0	7 8 0
Ditto	25,000	ditto	30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000 . . . . .				9 0 0	4 8 0	3 0 0]
(c) where payable at more than one year, after date or sight.				The same duty as a Bond (No. 15) for the same amount.		

<sup>1</sup> This was substituted by s. 2 of the Indian Stamp (Amendment) Act, 1912 (1 of 1912).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>14. BILL OF LADING</b> (including a through bill of lading).	Four annas.
<i>Exemptions.</i>	<i>N.B.</i> —If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
(a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the <sup>1</sup> Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.	
(b) Bill of lading when executed out of British India and relating to property to be delivered in British India.	
<b>15. BOND</b> [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870,—	VII of 1870.
where the amount or value secured does not exceed Rs. 10 . . . . .	Two annas.
where it exceeds Rs. 10 and does not exceed Rs. 50	Four annas.
Ditto            50            ditto            100	Eight annas.
Ditto            100            ditto            200	One rupee.
Ditto            200            ditto            300	One rupee eight annas.
Ditto            300            ditto            400	Two rupees.
Ditto            400            ditto            500	Two rupees eight annas.
Ditto            500            ditto            600	Three rupees.
Ditto            600            ditto            700	Three rupees eight annas.
Ditto            700            ditto            800	Four rupees.
Ditto            800            ditto            900	Four rupees eight annas.
Ditto            900            ditto            1,000	Five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000 . . . . .	Two rupees eight annas.

<sup>1</sup> Bills of lading of Inland Steamer Companies have been exempted from the duty payable under this article, see Gazette of India, 1904, Pt. I, p. 38.

<sup>2</sup> See now the Indian Ports Act, 1908.

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Ben. Act  
III of 1876.

Description of Instrument.	Proper Stamp-duty.
<p><b>15. BOND—contd.</b></p> <p><i>See</i> ADMINISTRATION-BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY-BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).</p> <p><i>Exemptions.</i></p> <p>Bond, when executed by—</p> <p>(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;</p> <p>(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.</p>	
<p><b>16. BOTTOMRY BOND</b>, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.</p>	<p>The same duty as a Bond (No. 15) for the same amount.</p>
<p><b>17. CANCELLATION</b>—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.</p> <p><i>See also</i> RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).</p>	<p>Five rupees.</p>
<p><b>18. CERTIFICATE OF SALE</b> (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer—</p> <p>(a) where the purchase-money does not exceed Rs. 10 ;</p> <p>(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25 ;</p> <p>(c) in any other case . . . . .</p>	<p>Two annas.</p> <p>Four annas.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.</p>

(Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>19. CERTIFICATE OR OTHER DOCUMENT</b> evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	'[Two annas.]
<i>See also</i> LETTER OF ALLOTMENT OF SHARES (No. 36).	
<b>20. CHARTER-PARTY</b> , that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	One rupee.
2*            *            *            *            *            *            *	
<b>22. COMPOSITION-DEED</b> , that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license for the benefit of his creditors.	Ten rupees.
<b>23. CONVEYANCE</b> [as defined by section 2 (10)] not being a TRANSFER charged or exempted under No. 62,—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50 ;	Eight annas.
where it exceeds Rs. 50 but does not exceed Rs. 100 ;	One rupee.
where it exceeds Rs. 100 but does not exceed Rs. 200 ;	Two rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300 ;	Three rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400 ;	Four rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500 ;	Five rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600 ;	Six rupees.

<sup>1</sup> Substituted by s. 2 of the Indian Stamp (Amendment) Act, 1923 (43 of 1923).

\* Article 21 was omitted by s. 5 of the Indian Finance Act, 1927 (5 of 1927).

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>23. CONVEYANCE—<i>contd.</i></b>	
where it exceeds Rs. 600 but does not exceed Rs. 700 ;	Seven rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800 ;	Eight rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900 ;	Nine rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000 ;	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
<i>Exemption.</i>	
XX of 1847. Assignment of copyright by entry made under the Indian Copyright Act, 1847, section 5.	
<b>CO-PARTNERSHIP-DEED.</b> See PARTNERSHIP (No. 46).	
<b>24. COPY OR EXTRACT</b> certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee.	Eight annas.
(ii) in any other case . . . . .	One rupee
<i>Exemptions.</i>	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
1[(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, 2 [divorces], deaths or burials.]	

1 This clause was substituted for cls. (b) and (c) by s. 7 (f) of the Indian Stamp (Amendment) Act, 1906 (5 of 1906).

2 This word was inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1914 (10 of 1914).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<p><b>25. COUNTERPART OR DUPLICATE</b> of any instrument chargeable with duty and in respect of which the proper duty has been paid,—</p> <p>(a) if the duty with which the original instrument is chargeable does not exceed one rupee.</p> <p>(b) in any other case . . . . .</p> <p><i>Exemption.</i></p> <p>Counterpart of any lease granted to a cultivator when such lease is exempted from duty.</p>	<p>The same duty as is payable on the original.</p> <p>One rupee.</p>
<p><b>26. CUSTOMS-BOND—</b></p> <p>(a) where the amount does not exceed Rs. 1,000</p> <p>(b) in any other case . . . . .</p>	<p>The same duty as a Bond (No. 15) for such amount.</p> <p>Five rupees.</p>
<p><b><sup>1</sup>[27. DEBENTURE</b> (whether a mortgage debenture or not), being a marketable security transferable—</p> <p>(a) by endorsement or by a separate instrument of transfer ;</p> <p>(b) by delivery . . . . .</p> <p><i>Explanation.</i>—The term “ Debenture ” includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.</p> <p><i>Exemption.</i></p> <p>A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.</p>	<p>The same duty as a Bond (No. 15) for the same amount.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.]</p>
<p><i>See also</i> BOND (No. 15), and SECTIONS 8 and 55.</p>	

<sup>1</sup> This Article was substituted by s. 3 (44) of the Indian Stamp (Amendment) Act, 1910 (6 of 1910).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>DECLARATION OF ANY TRUST.</b> <i>See</i> TRUST (No. 64).	
<b>28. DELIVERY-ORDER IN RESPECT OF GOODS,</b> that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	One anna.
<b>DEPOSIT OF TITLE-DEEDS.</b> <sup>1</sup> <i>[See</i> AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]	
<b>DISSOLUTION OF PARTNERSHIP.</b> <i>See</i> PARTNERSHIP (No. 46).	
<b>29. DIVORCE</b> —Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee.
<b>DOWER</b> —Instrument of. <i>See</i> SETTLEMENT (No. 58).	
<b>DUPLICATE.</b> — <i>See</i> COUNTERPART (No. 25).	
<b>30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT,</b> in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884—	
IX of 1884.	
(a) in the case of an Advocate or Vakil . . .	Five hundred rupees.
(b) in the case of an Attorney . . .	Two hundred and fifty rupees;
<i>Exemption.</i>	
Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	
* * * * *	
<b>31. EXCHANGE OF PROPERTY</b> —Instrument of .	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.

<sup>1</sup> Substituted for the words and figure “*See* Agreement by way of equitable mortgage (No. 6)” by s. 8 (2) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

<sup>2</sup> The entry “Equitable Mortgage” was omitted by s. 8 (3), *ibid.*

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>EXTRACT.</b> See COPY (No. 24).	
<b>32. FURTHER CHARGE</b> —Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given . . . . .	
<b>33. GIFT.</b> —Instrument of, not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
<b>HIRING AGREEMENT</b> or agreement for service. See AGREEMENT (No. 5).	
<b>34. INDEMNITY-BOND</b> . . . . .	The same duty as a Security-Bond (No. 57) for the same amount.
<b>INSPECTORSHIP-DEED.</b> See COMPOSITION-DEED (No. 22).	
<b>INSURANCE.</b> See POLICY OF INSURANCE (No. 47).	
<b>35. LEASE</b> , including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>35. LEASE—<i>contd.</i></b>	
(ii) where the lease purports to be for a term of not less than one year but not more than three years ;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity ;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered :
	Provided that, in any case when an agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>35. LEASE</b> — <i>concl'd.</i>	
<i>Exemptions.</i>	
(a) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	
(b) Leases of fisheries granted under the <sup>1</sup> Burma Fisheries Act, 1875, or the <sup>2</sup> Upper Burma Land and Revenue Regulation, 1899.	VII of 1875. III of 1899.
<b>36. LETTER OF ALLOTMENT OF SHARES</b> in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	<sup>3</sup> Two annas.
<i>See also</i> CERTIFICATE OR OTHER DOCUMENT (No. 19).	
<b>37. LETTER OF CREDIT</b> , that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.	<sup>3</sup> Two annas.
<b>LETTER OF GUARANTEE.</b> <i>See</i> AGREEMENT (No. 5).	
<b>38. LETTER OF LICENSE</b> , that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Ten rupees.
<b>39. MEMORANDUM OF ASSOCIATION OF A COMPANY—</b>	
(a) if accompanied by articles of association under section 37 of the Indian Companies Act, 1882;	Fifteen rupees.
(b) if not so accompanied . . . . .	Forty rupees.
<i>Exemption.</i>	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.	VI of 1882.

<sup>1</sup> See now the Burma Fisheries Act, 1905 (Burma Act III of 1905), by which Act VII of 1875 is repealed.

<sup>2</sup> Bur. Code.

<sup>3</sup> These words were substituted by s. 2 of the Indian Stamp (Amendment) Act, 1923 (43 of 1923).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<p><b>40. MORTGAGE-DEED</b>, not being <sup>1</sup>[an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)], BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), or SECURITY-BOND (No. 57)—</p> <p>(a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;</p> <p>(b) when * * * * * possession is not given or agreed to be given as aforesaid;</p> <p><i>Explanation.</i>—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.</p> <p>(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above mentioned purpose where the principal or primary security is duly stamped—</p> <p>for every sum secured not exceeding Rs. 1,000;</p> <p>and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.</p> <p><i>Exemptions.</i></p> <p>(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.</p> <p>(2) Letter of hypothecation accompanying a bill of exchange.</p> <p>* * * * *</p>	<p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.</p> <p>The same duty as a Bond (No. 15) for the amount secured by such deed.</p> <p>Eight annas.</p> <p>Eight annas.</p>
<p><b>41. MORTGAGE OF A CROP</b>, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—</p> <p>(a) when the loan is repayable not more than three months from the date of the instrument—</p> <p>for every sum secured not exceeding Rs. 200;</p>	<p>One anna.</p>

<sup>1</sup> These words were substituted for the words "an AGREEMENT TO MORTGAGE (No. 6)" by s. 8 (4) (a) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

<sup>2</sup> The words "at the time of execution" were repealed by s. 8 (4) (b), *ibid.*

<sup>3</sup> Exemption (3) was repealed by s. 8 (4) (c), *ibid.*

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>41. MORTGAGE OF A CROP—<i>contd.</i></b>	
and for every Rs. 200 or part thereof secured in excess of Rs. 200 ;	One anna.
(b) when the loan is repayable more than three months, but not more than <sup>1</sup> [eighteen months], from the date of the instrument—	
for every sum secured not exceeding Rs. 100 .	<sup>2</sup> [Two annas.]
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	<sup>2</sup> [Two annas.]
<b>42. NOTARIAL ACT</b> , that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	One rupee.
<i>See also</i> PROTEST OF BILL OR NOTE (No. 50).	
<sup>3</sup> <b>[43. NOTE OF MEMORANDUM</b> sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees ;	Two annas.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security.]
<b>44. NOTE OF PROTEST BY THE MASTER OF A SHIP.</b>	Eight annas.
<i>See also</i> PROTEST BY THE MASTER OF A SHIP (No. 51).	
<b>ORDER FOR THE PAYMENT OF MONEY.</b> <i>See</i> BILL OF EXCHANGE (No. 13).	

<sup>1</sup> These words were substituted for the words "one year" by s. 7 (2) of the Indian Stamp (Amendment) Act, 1906 (V of 1906).

<sup>2</sup> These words were substituted for the words "Four annas" by s. 8 (5) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

<sup>3</sup> This Article was substituted by s. 3 (iv) of the Indian Stamp (Amendment) Act, 1910 (6 of 1910).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>45. PARTITION</b> —Instrument of [as defined by s. 2 (15)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.
<p><i>N.B.</i>—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated :</p> <p>Provided always that—</p> <p>(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas :</p> <p>(b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue :</p> <p>(c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.</p>	
<p><b>46. PARTNERSHIP</b>—</p> <p>A.—INSTRUMENT OF—</p> <p>(a) where the capital of the partnership does not exceed Rs. 500 ;</p> <p>(b) in other cases . . . . .</p> <p>B.—DISSOLUTION OF— . . . . .</p> <p><b>PAWN OR PLEDGE</b>.—<i>See AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE (No. 6).</i></p>	
<p>Two rupees eight annas.</p> <p>Ten rupees.</p> <p>Five rupees.</p>	

<sup>1</sup> This entry was inserted by s. 8 (6) of the Indian Stamp (Amendment) Act, 1904 (15 of 1904).

<sup>2</sup> These words were substituted for the word "Fire-Insurance" by s. 2 (ii) of the Indian Stamp (Amendment) Act, 1923 (43 of 1923).

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>47. POLICY OF INSURANCE—<i>contd.</i></b>	
<p><b>C.—ACCIDENT AND SICKNESS-INSURANCE—<i>contd.</i></b>            (b) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000, for every Rs. 1,000, or part thereof.</p>	Two annas.
<p><sup>1</sup>[CC.—INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium.</p>	One anna.]
<p><b>D.—LIFE-INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this Article—</b>            for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—            (i) if drawn singly . . . . .            (ii) if drawn in duplicate, for each part</p>	<p>Six annas.            Three annas.</p>
<p><i>Exemption.</i>            Policies of life-insurance granted by the Director General of the Post Office of India in accordance with rules for Postal Life-Insurance issued under the authority of the Government of India.</p>	
<p><b>E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY</b> <sup>2</sup>[of the nature specified in Division A or Division B of this Article] with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.</p>	One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.
<p><i>General Exemption.</i>            Letter of cover or engagement to issue a policy of insurance :            Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.</p>	

<sup>1</sup> This Division was inserted by s. 2 of the Indian Stamp (Amendment) Act, 1925 (15 of 1925).

<sup>2</sup> These words were substituted for the words "OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE" by s. 2 of the Indian Stamp (Amendment) Act, 1923 (43 of 1923).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>48. POWER-OF-ATTORNEY</b> [as defined by section 2 (21)], not being a PROXY (No. 52),—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents ;	Eight annas.
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882 ;	Eight annas.
(c) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (a) ;	One rupee.
(d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally ;	Five rupees.
(e) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;	Ten rupees.
(f) when giving for consideration and authorizing the attorney to sell any immoveable property ;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(g) in any other case . . . . .	One rupee for each person authorized.
<i>Explanation.</i> —For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	N. B.—The term “registration” includes every operation incidental to registration under the 1 Indian Registration Act, 1877.
<b>49. <sup>2</sup> [PROMISSORY NOTE</b> [as defined by section 2 (22)]—	
(a) when payable on demand—	
(i) when the amount or value does not exceed Rs. 250 ;	One anna.
(ii) when the amount or value exceeds Rs. 250, but does not exceed Rs. 1,000 ;	Two annas.
(iii) in any other case . . . . .	Four annas.
(b) when payable otherwise than on demand .	The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.]

<sup>1</sup> See now the Indian Registration Act, 1908.<sup>2</sup> This Article was substituted by s. 2 of the Indian Stamp (Amendment) Act, 1923 (43 of 1923).

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp duty.
<b>50. PROTEST OF BILL OR NOTE</b> , that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.	One rupee.
<b>51. PROTEST BY THE MASTER OF A SHIP</b> , that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	One rupee.
<i>See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).</i>	
<b>52. PROXY</b> empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors to the funds of any institution.	1 [Two annas.]
<b>53. RECEIPT</b> [as defined by section 2(23)] for any money or other property the amount or value of which exceeds twenty rupees.	One anna.
<p style="text-align: center;"><i>Exemptions.</i></p> <p>Receipt—</p> <p>(a) endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity, or other periodical payment thereby secured;</p> <p>(b) for any payment of money without consideration;</p> <p>(c) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of Inam lands;</p>	

<sup>1</sup> These words were substituted for the words "one anna" by s. 2 of the Indian Stamp (Amendment) Act, 1923 (43 of 1923).

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<p><b>53. RECEIPT—<i>contd.</i></b></p> <p><i>Exemptions—contd.</i></p> <p>(d) for pay or allowances by non-commissioned officers, 1[soldiers or airmen] of 1 [His Majesty's military or air forces] when serving in such capacity, or by mounted police-constables ;</p> <p>(e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer, 1 [soldier or airman] of 1 [any of the said forces] and serving in such capacity ;</p> <p>(f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers, 1 [soldiers or airmen], and not serving the Government in any other capacity ;</p> <p>(g) given by a headman or lambardar for land-revenue or taxes collected by him ;</p> <p>(h) given for money or securities for money deposited in the hands of any banker, to be accounted for :</p> <p>Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for :</p> <p>Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for, or upon a letter of allotment of a share or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.</p> <p><sup>2</sup>[ See also POLICY OF INSURANCE [No. 47-B (2)]. ]</p>	
<p><b>54. RECONVEYANCE OF MORTGAGED PROPERTY—</b></p> <p>(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;</p> <p>(b) in any other case . . . . .</p>	<p>The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.</p> <p>Ten rupees.</p>

<sup>1</sup> These words were substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

<sup>2</sup> This note was added by s. 7 (4) of the Indian Stamp (Amendment) Act, 1906 (V of 1906).

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<p><b>55. RELEASE</b>, that is to say, any instrument I[not being such a release as is provided for by section 23A)] whereby a person renounces a claim upon another person or against any specified property—</p> <p>(a) if the amount or value of the claim does not exceed Rs. 1,000 ;</p> <p>(b) in any other case . . . . .</p>	<p>The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.</p> <p>Five rupees.</p>
<p><b>56. RESPONDENTIA BOND</b>, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.</p>	<p>The same duty as a Bond (No. 15) for the amount of the loan secured.</p>
<p><b>REVOCATION OF ANY TRUST OR SETTLEMENT.</b> See SETTLEMENT (No. 58) ; TRUST (No. 64).</p>	
<p><b>57. SECURITY BOND OR MORTGAGE-DEED</b> executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—</p> <p>(a) when the amount secured does not exceed Rs. 1,000 ;</p> <p>(b) in any other case . . . . .</p>	<p>The same duty as a Bond (No. 15) for the amount secured.</p> <p>Five rupees.</p>
<p><i>Exemptions.</i></p>	
<p>Bond or other instrument, when executed—</p>	
<p>(a) by headmen nominated under rules framed in accordance with the <sup>2</sup>Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;</p> <p>(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;</p> <p>(c) under No. 3A of the rules made by the Governor of Bombay in Council under section 70 of the <sup>3</sup>Bombay Irrigation Act, 1879 ;</p>	

Ben. Act III  
of 1876.

Bom. Act  
VII of 1879.

<sup>1</sup> The parenthesis was inserted by s. 8 (7) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

<sup>2</sup> Ben. Code.

<sup>3</sup> Bom. Code.

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<b>57. SECURITY BOND OR MORTGAGE-DEED—</b> <i>contd.</i>	
<i>Exemptions—contd.</i>	
<p>(d) executed by persons taking advances under the Land Improvement Loans Act, 1883, of the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances ;</p> <p>(e) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.</p>	<p>XIX of 1883. XII of 1884.</p>
<b>58. SETTLEMENT—</b>	
<b>A.—INSTRUMENT OF (including a deed of dower)</b>	<p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.</p>
<i>Exemptions.</i>	
<p>(a) Deed of dower executed on the occasion of a marriage between Muhammadans.</p> <p>(b) Hludassa, that is to say, any settlement of immoveable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid<sup>1</sup>.</p>	
<b>B.—REVOCATION OF— . . . . .</b>	<p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.</p>
<i>See also TRUST (No. 64).</i>	
<b>59. SHARE WARRANTS</b> to bearer issued under the Indian Companies Act, 1882.	<p><sup>1</sup> [One and a half times] the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.</p>

<sup>1</sup> These words were substituted for the words "three quarters of" by s. 3 (v) of the Indian Stamp (Amendment) Act, 1910 (6 of 1910).

## (Schedule I.—Stamp-duty on Instruments.)

## SCHEDULE I—contd.

Description of Instrument.	Proper Stamp-duty.
<p><b>59. SHARE WARRANTS—contd.</b></p> <p><i>Exemptions.</i></p> <p>Share warrant when issued by a company in pursuance of the Indian Companies Act, 1882,<sup>1</sup> section 30, to have effect only upon payment as composition for that duty, to the Collector of Stamp-revenue, of—</p> <p>(a) <sup>2</sup> [one and a half] per centum of the whole subscribed capital of the company, or</p> <p>(b) if any company which has paid the said duty or composition in full subsequently issues an addition to its subscribed capital —<sup>2</sup> [one and a half] per centum of the additional capital so issued.</p> <p><b>SCRIP.</b> See CERTIFICATE (No. 19).</p>	
<p><b>60. SHIPPING ORDER</b> for or relating to the conveyance of goods on board of any vessel.</p>	<p>One anna.</p>
<p><b>61. SURRENDER OF LEASE—</b></p> <p>(a) when the duty with which the lease is chargeable does not exceed five rupees;</p> <p>(b) in any other case . . . . .</p> <p><i>Exemption.</i></p> <p>Surrender of lease, when such lease is exempted from duty.</p>	<p>The duty with which such lease is chargeable.</p> <p>Five rupees.</p>
<p><b>62. TRANSFER</b> (whether with or without consideration)—</p> <p>(a) of shares in an incorporated company or other body corporate;</p> <p>(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;</p>	<p><sup>3</sup> [One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.</p> <p><sup>3</sup> [One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.</p>

<sup>1</sup> See now the Indian Companies Act, 1913 (7 of 1913).

<sup>2</sup> These words were substituted for the word "three-quarters" by s. 3 (v) of the Indian Stamp (Amendment) Act, 1910 (6 of 1910).

<sup>3</sup> This word was substituted for the word "one-quarter" by s. 3 (vi), *ibid.*

## (Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
<b>62. TRANSFER—<i>contd.</i></b>	
(c) of any interest secured by a bond, mortgage-deed or policy of insurance—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees ;	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case . . . . .	Five rupees.
(d) of any property under the Administrator General's Act, 1874, 1 section 31 ;	Ten rupees.
(e) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.
<i>Exemptions.</i>	
Transfers by endorsement—	
(a) of a bill of exchange, cheque or promissory note ;	
(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;	
(c) of a policy of insurance ;	
(d) of securities of the Government of India.	
<i>See also section 8.</i>	
<b>63. TRANSFER OF LEASE</b> by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
<i>Exemption.</i>	
Transfer of any lease exempt from duty.	
<b>64. TRUST—</b>	
A <del>DECLARATION OF</del> —of, or concerning, any property when made by any writing not being a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.

1 See now the Administrator General's Act, 1913 (3 of 1913).

## (Schedule I.—Stamp-duty on Instruments.)

## Presidency Small Cause Courts.

[1899 : Act III.]

## SCHEDULE I—concl'd.

Description of Instrument.	Proper Stamp-duty.
<p><b>64. TRUST—concl'd.</b></p> <p>B.—REVOCATION OF—of, or concerning, any property when made by any instrument other than a WILL.</p> <p><i>See also</i> SETTLEMENT (No. 58).</p> <p><b>VALUATION.</b> <i>See</i> APPRAISEMENT (No. 8).</p> <p><b>VAKIL.</b> <i>See</i> ENTRY AS A VAKIL (No. 30).</p> <p><b>65. WARRANT FOR GOODS</b>, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.</p>	<p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.</p> <p>Four annas.</p>

[SCHEDULE II.—Enactments repealed.] Repealed by s. 3 and Schedule II of the Repealing and Amending Act, 1914 (10 of 1914).

ACT No. III OF 1899.<sup>1</sup>

[27th January, 1899.]

An Act to further amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to further amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :—

XV of 1882.

Short title.

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1899; 2 \* \* \* \* \*

Amendment of section 4, Act XV, 1882.

2. To section 4 of the Presidency Small Cause Courts Act, 1882 XV of 1882. (hereinafter referred to as "the said Act"), the words "and the expression 'Registrar' includes a Deputy Registrar" shall be added.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 210; for Report of the Select Committee, see *ibid*, 1899, Pt. V, p. 1; for Proceedings in Council, see *ibid*, 1898, Pt. VI, p. 101; *ibid*, 1899, Pt. VI, pp. 3 and 16.

<sup>2</sup> The word "and" and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

1899 : Act IV.] *Government Buildings.*

1 of 1895.

3. For section 8A of the said Act as amended by the Presidency Small Cause Courts Act, 1895, the following section shall be substituted, namely,—

Substitution of new section for section 8A, Act XV, 1882, as amended by section 4, Act I, 1895.

“8A. (1) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the Local Government may appoint any person, having the qualifications required by section 7, to act as Chief Judge or Judge of the said Court, as the case may be.

Performance of duties of absent Judge.

(2) Every person so appointed shall be authorized to perform the duties of the Chief Judge or a Judge of the said Court until the return of the absent Chief Judge or Judge, or of the Judge acting as Chief Judge, or until the Local Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be.”

4. In section 9, sub-section (1), of the said Act as so amended, after clause (a) the following clause shall be added, namely :—

Amendment of section 9, Act XV, 1882, as amended by section 5, Act I, 1895.

“(aa) empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters, and”.

5. In section 13 of the said Act, between the word “appoint” and the words “as many clerks” the words “a Deputy Registrar and ” shall be inserted.

Amendment of section 13, Act XV, 1882.

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ACT No. IV OF 1899.<sup>1</sup>

[3rd February, 1899.]

An Act to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality.

WHEREAS it is expedient to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 256; for Report of the Select Committee, see *ibid*, 1899, Pt. V, p. 15; and for Proceedings in Council, see *ibid*, 1899, Pt. VI, pp. 2, 15 and 20.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899), B. & O. Code; in British Baluchistan by Regulation II of 1913, Bal. Code.

the property, or in the occupation, of the Government and situate within the limits of a municipality; It is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the Government Buildings Act, 1899.

(2) It extends to the whole of British India;<sup>1</sup> \* \* \* \*

“Municipal  
authority”  
defined.

2. In this Act the expression “municipal authority” includes a municipal corporation or a body of municipal commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

Exemption  
of certain  
Government  
buildings  
from muni-  
cipal laws to  
regulate the  
erection, etc.,  
of buildings  
within muni-  
cipalities.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building used or required for the public service or for any public purpose, which is the property, or in the occupation, of the Government, or which is to be erected on land which is the property, or in the occupation, of the Government :

Provided that, where the erection, re-erection, construction or material structural alteration of any such building as aforesaid (not being a building connected with Imperial defence, or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

Objections or  
suggestions  
as to erec-  
tion, etc.,  
of certain  
Government  
buildings  
within muni-  
cipalities  
how to be  
made and  
dealt with.

4. (1) In the case of any such building as is mentioned in the last preceding section (not being a building connected with Imperial defence or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret), the municipal authority, or any person authorized by it in this behalf, may, with the permission of the Local Government previously obtained, but not otherwise, and subject to any restrictions or conditions which may, by general or special order, be imposed by the Local Government, inspect the land and building and all plans connected with its erection, re-erection, construction or material structural alteration, as the case

<sup>1</sup> The word “and” and sub-section (5) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

may be, and may submit to the Local Government a statement in writing of any objections or suggestions which such municipal authority may deem fit to make with reference to such erection, re-erection, construction or material structural alteration.

(2) Every objection or suggestion submitted as aforesaid shall be considered by the Local Government, which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected, constructed or altered, as the case may be, in accordance with such orders :

Provided that, if the Local Government overrules or disregards any such objection or suggestion as aforesaid, it shall give its reasons for so doing in writing

(3) Every order passed by the Local Government under this section <sup>1</sup>[in regard to any building which is used or required for the administration of a central subject as defined in section 45A of the Government of India Act or which is the property of the Government of India] shall be subject to revision by the Governor General in Council, but not otherwise, and the decision of the Governor General in Council thereon shall be final.

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ACT No. V OF 1899.<sup>2</sup>

[10th February, 1899.]

### An Act to further amend the Indian Evidence Act, 1872.

WHEREAS it is expedient to further amend the Indian Evidence Act, 1872; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Evidence Act, 1899; Short title.  
3 \* \* \* \*

2. [Addition to section 37, Act I, 1872.] Repealed by the Repealing and Amending Act, 1914 (10 of 1914).

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<sup>1</sup> These words were inserted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 349; for Report of the Select Committee, see *ibid*, 1899, Pt. V, p. 23; for Proceedings in Council, see *ibid*, 1898, Pt. VI, p. 389; and *ibid*, 1899, pp. 17 and 24.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899).

<sup>3</sup> The word "and" and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

Amendment  
of section 45  
and addition  
to section 73,  
Act I, 1872.

3. (1) In section 45 of the said Act, as amended by section 4 of the Indian Evidence Act Amendment Act, after the word "handwriting," <sup>XVIII of 1872.</sup> in each of the two places in which it occurs, the words "or finger-impressions" shall be inserted.

(2) To section 73 of the said Act the following shall be added, namely:—

"This section applies also, with any necessary modifications, to finger-impressions."

Amendment  
of section 86,  
Act I, 1872.

4. In section 86 of the said Act, as amended by section 8 of the Indian Evidence Act (1872) Amendment Act, 1891, for the second <sup>III of 1891.</sup> paragraph the following shall be substituted, namely:—

"An officer who, with respect to any territory or place not forming part of Her Majesty's dominions, is a Political Agent therefor, as defined in section 3, Clause (40), of the General Clauses Act, 1897, <sup>X of 1897.</sup> shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place."

5. [Partial repeal of section 8, Act III, 1891.] Repealed by the Repealing and Amending Act, 1914 (10 of 1914).

#### ACT No. VI OF 1899.<sup>1</sup>

[17th February, 1899.]

#### An Act to amend the Indian Contract Act, 1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872; <sup>IX of 1872.</sup> It is hereby enacted as follows:—

Short title,  
commence-  
ment and  
application.

1. (1) This Act may be called the Indian Contract Act Amendment Act, 1899.

(2) It shall come into force on the first day of May, 1899; and.

(3) It shall apply to every contract in respect of which any suit is instituted, or which is put in issue in any suit, after the commencement of this Act.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 274; for Report of the Select Committee, see *ibid*, 1899, Pt. V, p. 19; for Proceedings in Council, see *ibid*, 1898, Pt. VI, p. 293; *ibid*, 1899, Pt. VI, pp. 10 and 207.

IX of 1872. 2. Section 16 of the Indian Contract Act, 1872, is hereby repealed, and the following is substituted therefor, namely:—

Substitution  
of new sec-  
tion 16,  
Act IX,  
1872.

“ 16. (1) A contract is said to be induced by ‘undue influence’ where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

“ Undue  
influence ”  
defined.

(2) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another—

(a) where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or

(b) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

(3) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other.

Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872.

I of 1872.

#### *Illustrations.*

(a) A having advanced money to his son, B, during his minority, upon B's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.

(b) A, a man enfeebled by disease or age, is induced, by B's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence.

(c) A being in debt to B, the money-lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.

(d) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence.”

Amendment  
of section 19  
of, and addi-  
tion of new  
section to,  
Act IX,  
1872.

3. In section 19 of the said Act the words "undue influence" are hereby repealed, and after the same section the following is inserted, namely :—

Power to set  
aside con-  
tract induced  
by undue  
influence.

19A. When consent to an agreement is caused by undue influence, the agreement is a contract voidable at the option of the party whose consent was so caused.

Any such contract may be set aside either absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the Court may seem just.

#### *Illustrations.*

(a) A's son has forged B's name to a promissory note. B, under threat of prosecuting A's son, obtains a bond from A for the amount of the forged note. If B sues on this bond, the Court may set the bond aside.

(b) A, a money-lender, advances Rs. 100 to B, an agriculturist, and, by undue influence, induces B to execute a bond for Rs. 200 with interest at 6 per cent. per month. The Court may set the bond aside, ordering B to repay the Rs. 100 with such interest as may seem just."

Amendment  
of section 74,  
Act IX,  
1872.  
Compensation for  
breach of  
contract  
where  
penalty  
stipulated  
for.

4. (1) Section 74, paragraph 1, of the said Act is hereby repealed, and the following is substituted therefor, namely :—

"74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for.

*Explanation.*—A stipulation for increased interest from the date of default may be a stipulation by way of penalty."

(2) After *illustration (c)* to the said section the following *illustrations* shall be added, namely :—

"(d) A gives B a bond for the repayment of Rs. 1,000 with interest at 12 per cent. at the end of six months, with a stipulation that, in case of default, interest shall be payable at the rate of 75 per cent. from the date of default. This is a stipulation by way of penalty, and B is only entitled to recover from A such compensation as the Court considers reasonable.

(e) A, who owes money to B, a money-lender, undertakes to repay him by delivering to him 10 maunds of grain on a certain date, and stipulates that, in the event of his not delivering the stipulated amount by the stipulated date, he shall be liable to deliver 20 maunds. This is a stipulation by way of penalty, and B is only entitled to reasonable compensation in case of breach.

(f) A undertakes to repay B a loan of Rs. 1,000 by five equal monthly instalments, with a stipulation that, in default of payment of any instalment, the whole shall become due. This stipulation is not by way of penalty, and the contract may be enforced according to its terms.

(g) A borrows Rs. 100 from B and gives him a bond for Rs. 200 payable by five yearly instalments of Rs. 40, with a stipulation that, in default of payment of any instalment, the whole shall become due. This is a stipulation by way of penalty."

## THE INDIAN PETROLEUM ACT, 1899.

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THE FIRST SCHEDULE.—TESTING.THE SECOND SCHEDULE.—*Enactments repealed.* (Repealed.)

(Preliminary.)

ACT No. VIII OF 1899.<sup>1</sup>

[17th February, 1899.]

An Act to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances.

WHEREAS it is expedient to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances; It is hereby enacted as follows:—

Preliminary.

Short title  
and extent,

1. (1) This Act may be called the Indian Petroleum Act, 1899; 2\*

2\* \* \* \*

(3) <sup>3</sup>Sections 1 to 3, section 25, and all the provisions<sup>4</sup> of this Act in so far as they relate to dangerous petroleum and the importation of petroleum extend to the whole of British India. The rest<sup>5</sup> of this Act extends only to such local areas as the Local Government may, by notification in the local official Gazette, direct.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 13; for Report of the Select Committee, *see* *ibid*, p. 25; for Proceedings in Council, *see* *ibid*, Pt. VI, pp. 12 and 24.

<sup>2</sup> The word "and" at the end of sub-section (1) and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> These sections and provisions have been extended to British Baluchistan under s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913).

<sup>4</sup> These provisions have been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code. The rest of the Act was also declared to be in force in Sonthal Parganas, *see* B. & O. Gazette, 1918, Pt. II, p. 1390.

<sup>5</sup> The rest of the Act was extended to—

(1) Coorg—*see* Coorg District Gazette, 1899, Pt. I, p. 125;

(2) Ajmer-Merwara—*see* Gazette of India, 1901, Pt. II, p. 1178;

(3) the Punjab—*see* Punjab Gazette, 1902, Pt. I, p. 21;

(4) the Madras Presidency—*see* Fort St. George Gazette, 1900, Pt. I, p. 616; *ibid*, 1901, p. 325.

(5) Burma (except the Shan States)—*see* Burma Gazette, 1901, Pt. I, p. 87;

(6) the United Provinces—*see* N. W. P. and Oudh Gazette, 1901, Pt. I, p. 267;

(7) the Bombay Presidency—*see* Bombay Government Gazette, 1901, Pt. I, p. 902;

(8) the North-West Frontier Province—*see* Gazette of India, 1903, Pt. II, p. 969;

(9) Bengal, *see* Ben. R. and O.;

(10) Central Provinces, *see* Central Provinces Gazette, 1906, Pt. III, p. 517.

(Preliminary.)

2. In this Act, unless there is anything repugnant in the subject Definitions, or context,—

(a) “petroleum” includes also—

(i) the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, paraffin oil, mineral oil, kerosine, petroline, gasoline, benzoline, benzine and benzol;

(ii) any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any product of petroleum; and

(iii) any liquid, or viscous mixture having in its composition any of the liquids aforesaid;

but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit’s thermometer;

(b) “dangerous petroleum” means petroleum having its flashing point below seventy-six degrees of Fahrenheit’s thermometer :

Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous, if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit’s thermometer, and if no one of these samples has its flashing point below seventy degrees of that thermometer :

(c) to “import” means to bring into British India by sea or land :

(d) to “transport” means to remove within British India from one place to another :

(e) “prescribed” means prescribed by rules made under this Act :  
and

(f) “ship” includes anything made for the conveyance by water of human beings or property.

3. (1) The “flashing point” of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish

Matters supplemental to definitions.

<sup>1</sup> For rules as to control of vessels entering Calcutta with petroleum in bulk under the Indian Ports Act, 1889 (see now the Indian Ports Act, 1908), see Ben. R. and O.

*(Preliminary.)*

a momentary flash or flame when tested in accordance with the directions in the first schedule with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing, have been made.

(2) Notwithstanding anything in the definitions of "import" and "transport," the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare—

- <sup>1</sup>(a) that petroleum imported into the Province from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and
- (b) that petroleum transported into the Province from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Power to  
vary tests  
and pre-  
scribe new  
tests.

4. (1) The Governor General in Council may, by notification<sup>2</sup> in the Gazette of India, alter or add to the first schedule by laying down new or varied tests and directions for preparing and using them; and after the issue of any such notification as aforesaid, the reference in section 3, sub-section (1), to the first schedule shall be construed as referring to the said schedule as so altered or added to for the time being.

(2) The Governor General in Council may, in like manner, lay down special tests and issue special instructions in respect of the testing of any substance other than petroleum to which the whole or any portion

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<sup>1</sup> Petroleum imported into Chittagong by sea from any port in Burma is to be deemed to be transported within the meaning of this clause, *see* Ben. R. and O.

For notifications under this clause, *see* different Local Rules and Orders.

<sup>2</sup> For such notification, *see* Gen. R. and O.

*(Preliminary. Dangerous Petroleum.)*

of this Act may be applied in exercise of the power conferred by section 22, and for which the tests in the first schedule are unsuitable.

X of 1897. (3) The provisions of section 23 of the General Clauses Act, 1897, shall apply to notifications under this section as if they were rules or orders required to be made after previous publication.

*Dangerous Petroleum.*

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported or kept by any one person or on the same premises, except under, and in accordance with the conditions (if any) of, a license from the Local Government <sup>1</sup>[or an officer appointed by the Local Government in this behalf] 2\* \* \*.

Dangerous petroleum in quantities exceeding forty gallons.

(2) Every application for such a license shall be in writing in the prescribed form,<sup>3</sup> and shall contain the prescribed particulars.

6. No quantity of dangerous petroleum equal to, or less than, forty gallons shall be kept or transported without a license :

Dangerous petroleum in quantities not exceeding forty gallons.

Provided<sup>2</sup> that, nothing in this section shall apply in any case where the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

7. Dangerous petroleum—

(a) which is imported and is kept at any place after seven days from the date of its importation, or

Vessels containing dangerous petroleum to be labelled.

(b) which is transported, or

(c) which is sold or exposed for sale,

shall be contained in vessels having attached thereto labels in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition,—

(d) in the case of a vessel kept, of the name and address of the consignee or owner ;

<sup>1</sup> These words were inserted by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

<sup>2</sup> The words "granted as next hereinafter provided" were repealed by the Repealing and Amending Act, 1901 (XI of 1901).

<sup>3</sup> For form of application for a license to import, transport and possess petroleum in Burma, see Burma Gazette, 1900, Pt. I, p. 683.

(*Dangerous Petroleum. Petroleum generally.*)

(e) in the case of a vessel transported, of the name and address of the sender; and,

(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

*Petroleum generally.*

Power for  
Governor  
General in  
Council to  
make rules.

8. (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases in which such licenses are by law required.

Power for  
Local Gov-  
ernment to  
make rules.

9. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules<sup>2</sup> to regulate the importation of petroleum and the granting of licenses to possess or to transport petroleum within the Province in cases in which such licenses are by law required.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) determine the ports at which alone petroleum may be imported;
- (b) provide for ascertaining the quantity and description of any petroleum on board any ship;
- (c) determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped or stored;
- (d) provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;

<sup>1</sup> For rules as to the transport of petroleum from one Province of British India to another, see Gazette of India, 1902, Pt. I, p. 889; and Gen. R. and O.

<sup>2</sup> For rules under this section for refining and testing of petroleum produced in Burma, see Bur. R. M.

For rules regulating import by sea of petroleum into different Provinces, see different Local Rules and Orders.

For rules regulating the import, possession, sale and transport of carbide of calcium, see different Local Rules and Orders.

For rules regulating the grant of licenses to possess or transport petroleum, see different Local Rules and Orders.

*(Petroleum generally.)*

- (e) provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;
- (f) provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples ;
- (g) fix fees for the sampling and testing of petroleum ;
- (h) fix fees for the storage of petroleum unless any local authority is empowered in that behalf ;
- (i) define, with respect to any petroleum produced within the Province, the limits of the places in which such petroleum is to be refined <sup>1</sup>, <sup>2</sup> ;
- (j) provide for the testing at or near those places of petroleum so produced <sup>2</sup> ;
- (k) prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum so produced which has not satisfied the prescribed test ;
- (l) prescribe the authority by which licenses to possess or to transport petroleum may be granted ;
- (m) fix the fee to be charged for any such license ;
- (n) limit the quantity of petroleum to be covered by any such license ;
- (o) prescribe the conditions which may be inserted in any such license ;
- (p) limit the time during which any such license is to continue in force :

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<sup>1</sup> For notification issued under this clause, see different Local Rules and Orders.

<sup>2</sup> For rules as to refining and testing petroleum, see different Local Rules and Orders.

*(Petroleum generally.)*

- (q) provide for the renewal of any such license;
- (r) provide for the nature and situation of the premises in respect of which licenses to possess petroleum may be granted, the inspection of premises so licensed and the testing of petroleum found thereon; and
- (s) prescribe the manner in which the petroleum covered by a license to transport is to be packed, the mode and time of its transit, the route by which it is to be taken, and its stoppage and inspection during transit.

Procedure  
after petro-  
leum has  
been dis-  
charged or  
landed.

10. (1) Petroleum discharged into boats or landed in accordance with rules made under section 9, sub-section (2), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer<sup>1</sup> appointed by the Local Government in this behalf and the officer has given a certificate that the petroleum is not dangerous petroleum.

(2) If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

- (a) to rectify the petroleum,
- (b) to apply for a license to import the petroleum as dangerous petroleum, or
- (c) to re-export the petroleum.

(3) If the consignee does not, within the time fixed under sub-section (2), avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government may direct.

(4) Notwithstanding anything in the foregoing provisions of this section, the Local Government, in its discretion, may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

<sup>1</sup> For officers appointed by Local Governments, see different Local Rules and Orders.

*(Petroleum generally.)*

11. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises, or shall be transported, except under, and in accordance with the conditions of, a license granted under this Act :

Possession and transport of petroleum.

Provided that the Local Government may, by notification<sup>1</sup> in the local official Gazette, exempt from the operation of this section petroleum when transported in such particular manner and under such particular conditions as may be set forth in the notification.

12. Any officer specially authorized<sup>2</sup> in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Power to inspect and require dealer to sell samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample, or cause it to be tested, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Notice to be given when officer proposes to test samples.

14. On any such testing if it appears to the officer or other person so testing that the petroleum from which the sample has been taken, is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be proof of the fact stated therein, and a certified copy of the certificate shall be given, free of charge, to the dealer at his request.

Certificate as to result of testing.

<sup>1</sup> For instance of a notification under this section, see Calcutta Gazette, 1909, Pt. I, p. 814.

<sup>2</sup> See Gazette of India, 1905, Pt. II, p. 246; Fort St. George Gazette, 1909, Pt. I, p. 726; Bom. Govt. Gazette, 1909, Pt. I, p. 864; Burma Gazette, 1909, Pt. I, p. 75; Gazette of India, 1909, Pt. II, p. 852; Calcutta Gazette, 1909, Pt. I, p. 814.

## (Penalties.)

## Penalties.

Penalty for illegal importation, possession or transport of petroleum or for refusal to comply with section 12.

## 15. Whoever—

- (a) in contravention of this Act or of any of the rules thereunder, imports, possesses or transports any petroleum; or
- (b) otherwise contravenes any such rules as aforesaid; or
- (c) breaks any condition contained in a license granted under this Act; or
- (d) being a dealer in petroleum, refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for contravention of section 7.

16. Whoever keeps, sells or exposes for sale dangerous petroleum in vessels not labelled as prescribed by section 7 shall be punishable with fine which may extend to five hundred rupees.

Confiscation of petroleum.

17. In any case in which an offence under section 15, clause (a), clause (b) or clause (c), or section 16 has been committed, the convicting Magistrate may direct that—

- (a) the petroleum in respect of which the offence has been committed, or
- (b) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

18. The criminal jurisdiction under this Act shall, in the Presidency-towns, be exercised by a Presidency Magistrate, and, elsewhere, by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class

*(Test-apparatus. Miscellaneous.)**Test-apparatus.*

19. A model of the apparatus for testing petroleum under this Act shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus".

20. (1) The Chemical Examiner shall, on payment of the prescribed fee<sup>1</sup> (if any), compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number and with the date of the verification, and shall further give a certificate in writing under his hand, in the prescribed form,<sup>2</sup> to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in the prescribed form, of all certificates granted under this section.

(5) Subject to the payment of the prescribed fees<sup>4</sup> (if any), the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

*Miscellaneous.*

21. The Local Government may, by notification in the local official Gazette, exempt<sup>5</sup> from the operation of all or any of the provisions of

Power to exempt petroleum from operation of Act.

<sup>1</sup> For fees prescribed under this section, see Gazette of India, 1890, Pt. I, p. 734, and Genl. R. and O., Vol. III, p. 353.

<sup>2</sup> For revised form of certificate, see Gazette of India, 1899, Pt. I, p. 1102; Genl. R. and O., Vol. III, p. 352.

<sup>3</sup> For Form of Register, see Genl. R. and O., Vol. III, p. 353.

<sup>4</sup> For fees prescribed under this section, see *ibid*, p. 354.

<sup>5</sup> For instance of notification under this section exempting shale oil, see Bombay Government Gazette, 1899, Pt. I, p. 1154; for exemptions by the Government of Madras, see Mad. R. and O.

## (Miscellaneous.)

this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Power to  
apply Act  
to other  
substances.

**22.** (1) The Governor General in Council may, by notification<sup>1</sup> in the Gazette of India, apply the whole or any portion of this Act to any substance, other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 11, the quantities of the substances to which those sections shall apply.

(2) When the whole or any portion of this Act has been applied as aforesaid to any substance other than petroleum, the provisions so applied shall be construed with all necessary modifications and shall have effect as if such other substance had been included in the definition of petroleum.

Power to  
limit  
operation of  
enactments,  
relating to  
possession or  
transport of  
petroleum,  
in municipi-  
palities.

**23.** The Governor General in Council may, by notification<sup>2</sup> in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to local authorities in any local area or to any particular local authority, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Previous  
publication,  
etc., of rules.

**24.** (1) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication in such manner<sup>3</sup> as the Governor General in Council may, by notification in the Gazette of India, direct.

(2) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted by this Act.

**25.** [*Repeal.*] *Repealed by s. 3 and Schedule II of the Repealing and Amending Act, 1914 (10 of 1914).*

<sup>1</sup> The provisions of ss. 5, 8 to 17, 18, 23 and 24 have been applied, under this section, to carbide of calcium, see Notification No. 101—10, dated 4th January 1907, Gazette of India, 1907, Pt. I, p. 15, and Genl. R. and O., Vol. III, p. 355.

<sup>2</sup> For instances of each notification, see Genl. R. and O., Vol. II, pp. 355-357.

<sup>3</sup> For rules as to the manner of publication, see Genl. R. and O., Vol. III, p. 357.

(The First Schedule.—Testing.)

## THE FIRST SCHEDULE.

## TESTING.

(See section 3.)

1.—*Nature of the Test-apparatus.*

The apparatus consists of the following parts :—

- (1) the oil-cup;
- (2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame;
- (3) the water-bath or heating vessel;
- (4) the tripod stand with jacket and spirit-lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle or *pipette* for replenishing the test-lamp; and
- (9) a barometer standardised at the Meteorological Office of the Province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two: consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

*(The First Schedule.—Testing.)**II.—Directions for drawing the Sample and preparing it for testing.*

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or cyphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about forty fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

1[3. *Samples of certain mixtures.*—Samples of liquid and viscous and sedimentary petroleum mixtures shall be prepared for testing in the manner prescribed by the two foregoing directions.]

*III.—Directions for preparing and using the Test-apparatus.*

1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it flows out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills out the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and, when the temperature has reached 56° Fahrenheit, the clockwork is set in motion by pressing the trigger.

<sup>1</sup> This item was added by Notification No. 3901-6, dated 27th May 1911, see Gazette of India, 1911, Part I, p. 368.

*(The First Schedule.—Testing.)*

If no flash takes place, the clockwork is at once rewound and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

If, however, a flash has occurred at or below 60° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2° and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that, if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56° and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47°, and the sample shall be reported dangerous.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200° or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit as the case may be has been reached. If during the operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at 2 without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1.6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32°

*(The First Schedule.—Testing.)*

Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule giving the flashing point of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

*Example.*—An oil has given a flashing point of 71°0, the barometer being at 28·6 inches; take the nearest number to 71°0 in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

<sup>1</sup> [*Directions for testing petroleum mixtures.*]

6. *Liquid mixtures.*—Where the petroleum mixture is wholly liquid, flows quite freely, and does not contain any sediment or thickening ingredient, such mixture is tested in the same manner as ordinary petroleum.

7. *Viscous and sedimentary mixtures.*—Where the petroleum mixture contains an undissolved sediment, as in the case of some metal polishes which can be separated by filtration, or by settlement and decantation, the sediment may be so separated and the decanted liquid may be tested in the same manner as ordinary petroleum.

In carrying out such separation, care must be taken to minimise the evaporation of the petroleum. The separation of the sediment must not be effected by distillation.

Where the petroleum mixture is such that sediment cannot be separated by the aforementioned means, or where it is of a viscous nature as in the case of india-rubber solution, quick drying paints, etc., such mixture shall be tested in a modified apparatus, which differs from that prescribed in Part I only in the addition of a stirrer to equalise the temperature throughout the sample under test.

In carrying out the test of a viscous petroleum mixture this stirrer shall be constantly revolved at a slow speed, except when applying the test flame with the fingers, the direction of revolution being that of the hand of a clock.

With the exception of the use of the stirrer, the manner of carrying out the test shall be the same as in the case of ordinary petroleum.

The stirrer may be removed by grasping the spindle just above the blades with the finger and thumb, and unscrewing the upper sheath. The opening in the lid, through which the stirrer passes, may then be closed by a plug provided for the purpose.

When this has been done the apparatus shall be deemed to comply with the specification set forth in this schedule and may be used for testing ordinary petroleum.

A model of the aforementioned apparatus will be deposited in the office of the Chemical Examiner to Government, Calcutta, and the provisions of section 20 of the Petroleum Act, 1899, in regard to verification and stamping shall apply also to such apparatus as though it were the apparatus prescribed by the said Act.

For the purpose of carrying out such verification the stirrer shall be removed and the opening plugged as hereinbefore directed. The apparatus shall then be tested with ordinary petroleum. The stirrer shall be verified by comparisons of measurements.]

<sup>1</sup> [IV.—*Directions for determining the flashing point of petroleum and petroleum mixtures which are not fluid at ordinary temperatures but liquefy when heated in a water bath, or which are liquid at ordinary temperatures but solidify on being cooled to 50° F.*]

1. *Nature of the test-apparatus.*—The instrument employed is the Abel-Pensky petroleum testing apparatus, fitted with an additional thermometer to indicate the temperature of the oil in close proximity to the walls of the cup. This thermometer has a cylindrical bulb,  $\frac{3}{4}$  inch in length and  $\frac{1}{16}$  inch in diameter. It is scaled from 45° to 165° Fahrenheit, 10° on the scale occupying  $\frac{3}{8}$  inch. The thermometer is held vertically in a socket attached to the cover of the oil-cup in such a position that the bulb is  $\frac{1}{16}$  inch from the side of the cup.


<sup>1</sup> These entries were substituted by Notification No. 3901-6, dated 27th May, 1911, see Gazette of India, 1911, Pt. I, p. 368.

*(The First Schedule.—Testing.)*

(The thermometer can be removed and the orifice which is provided for it closed by means of an india-rubber plug, if the apparatus is required for testing petroleum in the ordinary way.)

2. *Directions for preparing the sample for testing.*—About ten fluid ounces of the oil are placed in a pint-flask, the mouth of which is then closed with an india-rubber stopper and the sample is liquefied by placing the flask in a water-bath, the temperature of which is only raised sufficiently high to liquefy the oil.

3. *Directions for preparing and using the test-apparatus.*—The water-bath and test-lamp are to be prepared in the manner prescribed in Part III of this Schedule. The oil-cup is to be filled with the liquefied oil, and the cover (into which both thermometers are to be previously inserted) placed on it, care being taken that the bulb of the additional thermometer is not brought into contact with the bracket-gauge fixed inside the cup. The oil-cup is then to be placed in a refrigerator, or plunged up to the projecting collar in water maintained at sufficiently low temperature, until both thermometers indicate the temperature at which the testing of petroleum is directed in Part III of this Schedule to be commenced. The oil-cup is then to be removed, wiped dry and placed in the water-bath, and the testing effected in the manner prescribed in Part III of this Schedule, the temperature indicated by the additional (vertical) thermometer alone being noted, and the average of three determinations, duly corrected for atmospheric pressure, being recorded as the flashing point of the sample, provided that no greater difference than 40 Fahrenheit exists between any two of such results.



*Table for correction of Flashing Points indicated by the test for Variations in Barometric Pressure on either side of Thirty Inches.*

Barometer in inches.

27	27.2	27.4	27.6	27.8	28	28.2	28.4	28.6	28.8	29	29.2	29.4	29.6	29.8	30	30.2	30.4	30.6	30.8	31
Flashing Point in Degrees Fahrenheit.																				
60.2	60.5	60.8	61.2	61.5	61.8	62.1	62.4	62.8	63.1	63.4	63.7	64	64.4	64.7	65	65.3	65.6	66	66.3	66.6
61.2	61.5	61.8	62.2	62.5	62.8	63.1	63.4	63.8	64.1	64.4	64.7	65	65.4	65.7	66	66.3	66.6	67	67.3	67.6
62.2	62.5	62.8	63.2	63.5	63.8	64.1	64.4	64.8	65.1	65.4	65.7	66	66.4	66.7	67	67.3	67.6	68	68.3	68.6
63.2	63.5	63.8	64.2	64.5	64.8	65.1	65.4	65.8	66.1	66.4	66.7	67	67.4	67.7	68	68.3	68.6	69	69.3	69.6
64.2	64.5	64.8	65.2	65.5	65.8	66.1	66.4	66.8	67.1	67.4	67.7	68	68.4	68.7	69	69.3	69.6	70	70.3	70.6
65.2	65.5	65.8	66.2	66.5	66.8	67.1	67.4	67.8	68.1	68.4	68.7	69	69.4	69.7	70	70.3	70.6	71	71.3	71.6
66.2	66.5	66.8	67.2	67.5	67.8	68.1	68.4	68.8	69.1	69.4	69.7	70	70.4	70.7	71	71.3	71.6	72	72.3	72.6
67.2	67.5	67.8	68.2	68.5	68.8	69.1	69.4	69.8	70.1	70.4	70.7	71	71.4	71.7	72	72.3	72.6	73	73.3	73.6
68.2	68.5	68.8	69.2	69.5	69.8	70.1	70.4	70.8	71.1	71.4	71.7	72	72.4	72.7	73	73.3	73.6	74	74.3	74.6
69.2	69.5	69.8	70.2	70.5	70.8	71.1	71.4	71.8	72.1	72.4	72.7	73	73.4	73.7	74	74.3	74.6	75	75.3	75.6
70.2	70.5	70.8	71.2	71.5	71.8	72.1	72.4	72.8	73.1	73.4	73.7	74	74.4	74.7	75	75.3	75.6	76	76.3	76.6
71.2	71.5	71.8	72.2	72.5	72.8	73.1	73.4	73.8	74.1	74.4	74.7	75	75.4	75.7	76	76.3	76.6	77	77.3	77.6
72.2	72.5	72.8	73.2	73.5	73.8	74.1	74.4	74.8	75.1	75.4	75.7	76	76.4	76.7	77	77.3	77.6	78	78.3	78.6
73.2	73.5	73.8	74.2	74.5	74.8	75.1	75.4	75.8	76.1	76.4	76.7	77	77.4	77.7	78	78.3	78.6	79	79.3	79.6
74.2	74.5	74.8	75.2	75.5	75.8	76.1	76.4	76.8	77.1	77.4	77.7	78	78.4	78.7	79	79.3	79.6	80	80.3	80.6
75.2	75.5	75.8	76.2	76.5	76.8	77.1	77.4	77.8	78.1	78.4	78.7	79	79.4	79.7	80	80.3	80.6	81	81.3	81.6

(The First Schedule.—Testing.)

[THE SECOND SCHEDULE.—Enactments repealed.] Repealed by  
s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

ACT No. IX OF 1899.<sup>1</sup>

[3rd March, 1899.]

### An Act to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Arbitration Act, 1899.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July, 1899.

Short title,  
extent and  
commence-  
ment.

2. Subject to the provisions of section 23, this Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town: Application.

Provided that the Local Government 2\* \* \* \*  
may, by notification in the local official Gazette, declare this Act applicable in any other local area<sup>3</sup> as if it were a Presidency-town.

3. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, and sections 523 to 526 of the Code of Civil Procedure<sup>4</sup> shall not apply to any submission or arbitration to which the provisions of the Act for the time being apply: Exclusion of certain enactments in certain cases where Act applies.

I of 1877.  
XIV of 1882.

Provided that nothing in this Act shall affect any arbitration pending in a Presidency-town at the commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made:

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<sup>1</sup> For Statement of Objects and Reasons. see Gazette of India, 1898, Pt. V, p. 286; for Report of the Select Committee. see *ibid.*, 1899, Pt. V, p. 31; for Proceedings in Council, see *ibid.*, 1898, Pt. VI, p. 366, and *ibid.*, 1899, Pt. VI, pp. 17, 52 and 60.

<sup>2</sup> The words "with the previous sanction of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act, 1920. (38 of 1920).

<sup>3</sup> The Act has been declared applicable to the town of Karachi, see Bombay Government Gazette, 1899, Pt. I, p. 1127.

<sup>4</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Sch. II, paragraphs 17-21.

<sup>5</sup> The second proviso was repealed by s. 290 and Sch. IV of the Indian Companies Act, 1913 (7 of 1913).

## Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(a) “the Court” means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge; and

1(b) “submission” means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator to be appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

*Illustration.*

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (1) In any of the following cases :

(a) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator ;

(b) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy ;

(c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him ;

(d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the

<sup>1</sup> This definition has been supplemented in U. P. by U. P. Act I of 1912.

submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

Power for parties in certain cases to supply vacancy.

(a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place;

(b) if, on such a reference, one party fails to appoint an arbitrator either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court may set aside any appointment made in pursuance of clause (b) of this section.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

Powers of arbitrator.

(a) have power to administer oaths to the parties and witnesses appearing;

(b) have power to state a special case for the opinion of the Court on any question of law involved; and

(c) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Award to be signed and filed.

11. (1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under section 10, clause (b), the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

Power for Court to enlarge time for making award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power to remit award.

13. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted under sub-section (1), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when filed to be enforceable as a decree.

15. (1) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(2) An award may be conditional or in the alternative.

#### *Illustration.*

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

Power to remove arbitrator or umpire.  
Costs.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit.

18. The forms set forth in the Second Schedule, or forms similar Forms. thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Power to stay proceedings where there is a submission.

20. The High Court may make rules consistent with this Act as to—

Power for High Court to make rules.

- (a) the filing of awards and all proceedings consequent thereon or incidental thereto;
- (b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;
- (c) the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees;
- (d) the staying of any suit or proceeding in contravention of a submission to arbitration; and
- (e) generally, all proceedings in Court under this Act.

I of 1877. 21. In section 21 of the Specific Relief Act, 1877, after the words " Code of Civil Procedure " the words and figures " and the Indian Arbitration Act, 1899," shall be inserted, and for the words " a controversy " the words " present or future differences " shall be substituted.

Amendment of section 21, Act I, 1877.

22. The provisions of this Act shall be binding on the Crown.

Crown to be bound.

*(The First Schedule.—Provisions to be implied in Submissions.)*

Special provision as to application of Act to Rangoon.

23.<sup>1</sup> (1) This Act shall apply within the local limits of the ordinary civil jurisdiction of the <sup>2</sup>[High Court of Judicature at Rangoon] in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits.

(2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a Presidency-town.

## THE FIRST SCHEDULE.

*(See section 6.)*

### PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power, to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

<sup>1</sup> This section was substituted for the original s. 23 by s. 47 and Sch. I of the Lower Burma Courts Act, 1900 (5 of 1900), Bur. Code, Vol. I.

<sup>2</sup> These words were substituted for the words "Chief Court of Lower Burma" by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

(The Second Schedule.—Forms.)

## THE SECOND SCHEDULE.

(See section 18.)

## FORM I.

*Submission to single arbitrator.*

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of                      and  
C. D. of                      concerning                      ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in  
difference to the award of X. Y.

(Signed) A. B.  
C. D.

Dated the                      189 .

## FORM II.

*Submission of particular dispute to single arbitrator.*

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of                      and  
C. D. of                      concerning                      ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in  
difference to the award of X. Y.

(Signed) A. B.  
C. D.

Dated the                      189 .

## FORM III.

*Appointment of single arbitrator under agreement to refer further differences to arbitration.*

In the matter of the Indian Arbitration Act, 1899:—

Whereas, by an agreement in writing, dated the                      day of  
18 ., and made between A. B. of                      and C. D. of                      , it is  
provided that differences arising between the parties thereto shall be referred to an  
arbitrator as therein mentioned;

And whereas differences within the meaning of the said provision have arisen and are  
still subsisting between the said parties concerning                      ;

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in  
difference to the award of X. Y.

(Signed) A. B.  
C. D.

Dated the                      189 .

## (The Second Schedule.—Forms.)

## FORM IV.

*Enlargement of time by arbitrator by endorsement on submission.*

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of \_\_\_\_\_ and C. D. of \_\_\_\_\_ :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (or above) submission until the \_\_\_\_\_ day of \_\_\_\_\_ 189 .

(Signed) X. Y.,

Dated the \_\_\_\_\_

189 .

Arbitrator.

## FORM V.

*Special case.*

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of \_\_\_\_\_ and C. D. of \_\_\_\_\_ :—

\*Here  
specify the  
Court.

The following special case is, pursuant to the provisions of section 10, clause (b), of the said Act, stated for the opinion of the \_\_\_\_\_ :—

(Here state the facts concisely in numbered paragraphs.)

The questions of law for the opinion of the said Court are :—

First, whether

Secondly, whether

(Signed) X. Y.,

Dated the \_\_\_\_\_

189 .

Arbitrator.

## FORM VI.

*Award.*

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of \_\_\_\_\_ and C. D. of \_\_\_\_\_ :—

Whereas in pursuance of an agreement in writing dated the \_\_\_\_\_ day of \_\_\_\_\_ 189 , and made between A. B. of \_\_\_\_\_ and C. D. of \_\_\_\_\_, the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning \_\_\_\_\_

(or as the case may be);

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows :—

I award—

(1) that

(2) that

(Signed) X. Y.,

Dated the \_\_\_\_\_

189 .

Arbitrator.

ACT No. X OF 1899.<sup>1</sup>

[3rd March, 1899.]

## An Act to amend the law relating to Carriers.

WHEREAS it is expedient to amend the law relating to carriers; It is hereby enacted as follows :—

1. (1) This Act may be called the Carriers Act, 1899; and

Short title  
and com-  
mencement.

(2) It shall come into force on the first day of May, 1899.

III of 1865.

2. After section 9 of the Carriers Act, 1865, the following section shall be added, namely :—

Addition of  
new section  
after section  
9, Act III,  
1865.

“ 10. No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff.”

Notice of  
loss or injury  
to be given  
within six  
months.

3. [Amendment of Schedule II, Act XV of 1877.] Repealed by the Indian Limitation Act, 1908 (IX of 1908).

ACT No. XI OF 1899.<sup>2</sup>

[10th March, 1899.]

## An Act to further amend the Court-fees Act, 1870.

VII of 1870.

WHEREAS it is expedient to further amend the Court-fees Act, 1870; It is hereby enacted as follows :—

1. (1) This Act may be called the Court-fees Amendment Act, Short title, 1899; 3\* \* \*

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 355; for Report of the Select Committee, see *ibid*, 1899, Pt. V, p. 37; for Proceedings in Council, see *ibid*, 1898, Pt. VI, p. 395; *ibid*, 1899, Pt. VI, pp. 25, 52 and 53.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 111; for Report of the Select Committee, see *ibid*, 1899, Pt. V, p. 41; for Proceedings in Council, see *ibid*, 1898, Pt. VI, pp. 2 and 98; *ibid*, 1899, Pt. VI, pp. 2, 60 and 73.

This Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O., Code, Vol. I.

<sup>3</sup> The word “and” and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

Addition of  
new sections  
after section  
19G, Act  
VII, 1870.  
Notice of  
applications  
for probate  
or letters of  
administra-  
tion to be  
given to  
Revenue-au-  
thorities,  
and proce-  
dure there-  
on.

12. After section 19G of the Court-fees Act, 1870, the following VII of 1870. sections shall be added, namely:—

“ 19H. (1) Where an application for probate or letters of adminis-  
tration is made to any Court other than a High Court, the Court shall  
cause notice of the application to be given to the Collector.

(2) Where such an application as aforesaid is made to a <sup>2</sup>High  
Court, the High Court shall cause notice of the application to be given  
to the <sup>3</sup>Chief Controlling Revenue-authority of the Province.

(3) The Collector, within the local limits of whose revenue jurisdic-  
tion the property of the deceased or any part thereof is, may at any  
time inspect or cause to be inspected, and take or cause to be taken  
copies of, the record of any case in which application for probate or  
letters of administration has been made; and if, on such inspection or  
otherwise, he is of opinion that the petitioner has under-estimated the  
value of the property of the deceased, the Collector may, if he thinks  
fit, require the attendance of the petitioner (either in person or by  
agent) and take evidence and inquire into the matter in such manner  
as he may think fit, and, if he is still of opinion that the value of the  
property has been under-estimated, may require the petitioner to amend  
the valuation.

(4) If the petitioner does not amend the valuation to the satisfaction  
of the Collector, the Collector may move the Court before which the  
application for probate or letters of administration was made, to hold  
an inquiry into the true value of the property :

Provided that no such motion shall be made after the expiration  
of six months from the date of the exhibition of the inventory required  
by section 277 of the Indian Succession Act, 1865,<sup>4</sup> or, as the case X of 1865.  
may be, by section 98 of the Probate and Administration Act, 1881,<sup>4</sup> V of 1881.

(5) The Court, when so moved as aforesaid, shall hold, or cause to  
be held, an inquiry accordingly, and shall record a finding as to the  
true value, as near as may be, at which the property of the deceased  
should have been estimated. The Collector shall be deemed to be a  
party to the inquiry.

<sup>1</sup> Section 2 has been virtually amended by s. 3 (2) of Act 10 of 1901.

<sup>2</sup> In the North-West Frontier Province this reference to the High Court is to be  
construed as referring to the Judicial Commissioner, *see* s. 6 (1) (c) of the North-  
West Frontier Province Law and Justice Regulation, 1901 (7 of 1901), P. and N.-W.  
Code.

<sup>3</sup> In the North-West Frontier Province, for “Chief Controlling Revenue-authority”  
read “Revenue Commissioner”, *see* s. 6 (1) (d) of *ibid.*

<sup>4</sup> This Act has been repealed by the Indian Succession Act, 1925 (39 of 1925).

(6) For the purposes of any such inquiry, the Court or person authorized by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(7) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the <sup>1</sup>Chief Controlling Revenue-authority of any application under section 19E.

(8) The Local Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).

19I. (1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the Third Schedule, and the Court is satisfied that the fee mentioned in No. 11 of the First Schedule has been paid on such valuation. Payment of court-fee in respect of probates and letters of administration.

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (4).

19J. (1) Any excess fee found to be payable on an inquiry held under section 19H, sub-section (6), and any penalty or forfeiture under section 19G may, on the certificate of the <sup>1</sup>Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India. Recovery of penalties, etc.

(2) The <sup>1</sup>Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.

<sup>1</sup> In the North-West Frontier Province, for "Chief Controlling Revenue-authority," read "Revenue Commissioner," see s. 6 (1) (d) of the North-West Frontier Law and Justice Regulation, 1901 (7 of 1901), P. and N.W. Code.

Sections 6 and 28 not to apply to probates or letters of administration.

19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration."

Addition of schedule to Act VII, 1870.

3. To the Court-fees Act, 1870, the following schedule shall be VII of 1870, added, namely :—

### "SCHEDULE III.

(See section 19 I.)

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY).

IN THE COURT OF

*Re Probate of the Will of  
the property and credits of*

(*or Administration of  
, deceased.*)

I

solemnly affirm  
make oath

and say that I am the executor (or one of the executors or one of the next-of-kin) of this affidavit all the property and credits of which the abovenamed deceased died possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of

### ANNEXURE A.

VALUATION OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF  
, DECEASED.

Cash in the house and at the banks, household goods, wearing apparel, books, plate, jewels, etc.

(State estimated value according to best of Executor's or Administrator's belief.)

Property in Government securities transferable at the Public Debt Office.

(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.)

Immoveable property, consisting of

(State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.)

Rs.      A.      P.

	Rs.	A.	P.
Leasehold property . . . . .			
<i>(If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.)</i>			
Property in public companies . . . . .			
<i>(State the particulars and the value calculated at the price of the day ; also the interest separately, calculating it to the time of making the application.)</i>			
Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money.			
<i>(State the amount of the whole ; also the interest separately, calculating it to the time of making the application.)</i>			
Book debts . . . . .			
<i>(Other than bad.)</i>			
Stock in trade . . . . .			
<i>(State the estimated value, if any.)</i>			
Other property not comprised under the foregoing heads . . . . .			
<i>(State the estimated value, if any.)</i>			
TOTAL . . . . .			
Deduct amount shewn in Annexure B not subject to duty . . . . .			
NET TOTAL . . . . .			

## ANNEXURE B:

## SCHEDULE OF DEBTS, ETC.

	Rs.	A.	P.
Amount of debts due and owing from the deceased, payable by law out of the estate . . . . .			
Amount of funeral expenses . . . . .			
Amount of mortgage incumbrances . . . . .			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty . . . . .			
TOTAL . . . . .			

4. [Repeal.] Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).

'ACT No. XII OF 1899.<sup>1</sup>

[10th March, 1899.]

An Act to amend the law relating to the forgery of currency-notes and bank-notes.

WHEREAS it is expedient to amend the law relating to the forgery of currency-notes and bank-notes; It is hereby enacted as follows:—

**Short title,** 1. (1) This Act may be called the Currency-Notes Forgery Act, 1899; 2 \* \* \* \*.

**Addition of new sections after section 489, Act XLV, 1860.** 2. After section 489 of the Indian Penal Code the following sections **XLV of 1860.** shall be added, namely:—

“ Of Currency-Notes and Bank-Notes. ”

**Counterfeit-  
ing cur-  
rency-notes  
or bank-  
notes.** 489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—For the purposes of this section and of sections 489B, 489C and 489D, the expression “ bank-note ” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 347; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 47; for Proceedings in Council, see *ibid*, 1898, Pt. VI, p. 370; *ibid*, 1899, Pt. VI, pp. 24, 68 and 84.

This Act has been declared in force in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. and O. Code, Vol. I.

<sup>2</sup> The word “and” and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

489C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

V of 1898.

XLV of  
1860.

3. In the Code of Criminal Procedure, 1898, Schedule II, after the entries relating to section 489 of the Indian Penal Code the following shall be added, namely :—

*" Of Currency-Notes and Bank-Notes.*

489A .	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489B .	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
489C .	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Bailable.	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
489D .	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto .	Ditto .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto."

ACT No. XIII OF 1899.<sup>1</sup>

[20th March, 1899.]

## An Act to consolidate and amend the law relating to Glanders and Farcy.

WHEREAS it is expedient to consolidate and amend the law relating to glanders and farcy; It is hereby enacted as follows :—

Short title  
and extent

1. (1) This Act may be called the Glanders and Farcy Act, 1899.

(2) It extends to the whole of British India; 2\* \* \*.

Definition of  
“diseased”.

2. (1) In this Act, unless there is anything repugnant in the subject or context, “diseased” means affected with glanders or farcy or any other dangerous epidemic disease among horses which the <sup>3</sup>[Local Government] may, by <sup>4</sup>notification in the <sup>3</sup>[local official Gazette] specify in this behalf 5\* \*.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 353; for Report of the Select Committee, *see* *ibid*, p. 51; for Proceedings in Council, *see* *ibid*, 1898, Pt. VI, p. 394; *ibid*, 1899, Pt. VI, pp. 25, 86 and 119.

This Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

It has been extended, under s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), to British Baluchistan, *see* Bal. Code.

It has been extended under s. 3 of the Angul Laws Regulation, 1913 (3 of 1913), to the Angul District, *see* B. & O. Code, Vol. I.

<sup>2</sup> The word “and” and sub-section (3) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> These words were substituted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>4</sup> For notification under this sub-section as amended by Act XI of 1901, as regards the Naini Tal, Dehra Dun and Saharanpur Districts, *see* Gazette of India, 1902, Pt. I, p. 30;

Ditto Ditto as to “Surra” for Bombay City,  
*see* *ibid*, 1904, Pt. I, p. 548.

For notification declaring “Lymphangitis Epizootica” and “Surra” to be dangerous epidemic diseases within the meaning of s. 2 (1), *see* Gazette of India, 1910, Pt. I, p. 669;

Ditto Ditto Ditto as to Poona Cantonment,  
*see* *ibid*, 1904, Pt. I, p. 948;

Ditto Ditto Ditto as to certain local  
areas, *see* Gazette of India, 1906, Pt. I, p. 205.

See also different Local Rules and Orders.

<sup>5</sup> Certain words were repealed by the Repealing Act, 1927 (12 of 1927).

(2) The provisions of this Act relating to horses shall apply also to [camels],<sup>1</sup> asses and mules.

2[3. (1) The Local Government may, by notification<sup>3</sup> in the local official Gazette, apply this Act or any provision of this Act to any local area, to be specified in such notification, within the province.

Application of Act to local areas by Local Government.

(2) In any such notification the Local Government may further direct that the Act or any provision so applied shall apply in respect of—

(a) all or any of the diseases mentioned or specified in a notification under section 2, sub-section (1),

(b) all animals or any class of animals mentioned in section 2, sub-section (2).]

4. (1) When this Act has been so applied to a local area, the Local Government may, by notification in the local official Gazette, appoint<sup>4</sup> such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of the local area or such portions thereof as it may prescribe, the powers conferred and the duties imposed by this Act on such officers.

Local Government to appoint Inspectors.

XLV of 1860.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such rules as the Local Government may make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

Power of entry and search.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

Power of seizure.

7. (1) On any such seizure as aforesaid, the Inspector shall cause the horse seized to be examined as soon as possible by such Veterinary Practitioner as the Local Government may<sup>5</sup> appoint in this behalf :

Horse to be examined by Veterinary Practitioner.

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

<sup>1</sup> This word was inserted by s. 2 of the Glanders and Farcy (Amendment) Act, 1920 (9 of 1920).

<sup>2</sup> This section was substituted by s. 3, *ibid.*

<sup>3</sup> For such notifications, *see* different Local Rules and Orders.

<sup>4</sup> For instances of Notifications under this section *see* different Local Rules and Orders.

<sup>5</sup> For notifications appointing Veterinary Practitioners, *see* different Local Rules and Orders.

(2) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which the Local Government may prescribe.

Horse to be destroyed if found diseased : otherwise restored.

8. (1) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed :

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules<sup>1</sup> which the Local Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(2) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, etc.

9. (1) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or to the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may by rule prescribe, destroyed.

(2) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as the Local Government may appoint<sup>2</sup> in this behalf.

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of the license.

<sup>1</sup> For such rules, see different Local Rules and Orders.

<sup>2</sup> For officers appointed under section 10, see different Local Rules and Orders.

12. (1) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Vexatious entries, searches and seizures.

(2) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under section 9, or removes any horse in contravention of section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for refusing to comply with notice under section 9, or for moving horse contrary to section 11.

14. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—

- (a) regulate entries, searches and seizures by Inspectors under this Act;
- (b) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine;
- (c) regulate the destruction or treatment, as the case may be, of horses certified under section 8 to be diseased, and the disposal of the carcasses of diseased horses;
- (d) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed; and
- (e) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(3) All rules under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

<sup>1</sup> For such rules, see different Local Rules and Orders.

(4) In making any rule under this section, the Local Government may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Appoint-  
ment of  
same person  
to be both  
Inspector  
and Veteri-  
nary Practi-  
tioner.

15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

Protection to  
persons  
acting under  
Act.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

17. [Repeal.] Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

[THE SCHEDULE.—Enactments repealed.] Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

### ACT No. XIV of 1899.<sup>2</sup>

#### An Act to further amend the Indian Tariff Act, 1894.

WHEREAS it is expedient to further amend the Indian Tariff Act, VIII of 1894, 1894; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Indian Tariff Amendment Act, 1899; 3 \* \*

Addition of  
new section  
8A after  
section 8,  
Act VIII,  
1894.

Additional  
import-duty  
on bounty  
fed articles.

2. After section 8 of the Indian Tariff Act, 1894, the following VIII of 1894, section shall be added, namely :—

4“ 8A. (1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the exportation

<sup>1</sup> For notifications under this section, see different Local Rules and Orders.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 55; for Proceedings in Council, see *ibid*, 1899, Pt. VI, pp. 86 and 119.

The Act has been declared in force in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. and O. Code, Vol. I.

<sup>3</sup> The word “and” and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>4</sup> This section has been amended by Act XII of 1903, s. 2.

therefrom of any article, and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1)."

3. This Act shall not apply to any imported article the bill of lading for which was signed and given before the commencement of this Act. Act not to apply in certain cases,

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ACT No. XVIII OF 1899.<sup>1</sup>

[14th July, 1899.]

An Act to amend the Land Improvement Loans Act, 1883.

WHEREAS it is expedient to amend the Land Improvement Loans Act, 1883; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Improvement Loans Short title.  
(Amendment) Act, 1899; 2 \* \* \* \* \*

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 77; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 186 and 188.

The Act has been extended to the Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), B. & O. Code, Vol. I.

<sup>2</sup> The word "and" and sub-section (2) were repealed by s. 3 and Sch. II of Repealing and Amending Act, 1914 (10 of 1914).

Amendment,  
with retro-  
spective  
effect, of  
section 6,  
Act XIX,  
1883.

2. In section 6, sub-section (1), of the Land Improvement Loans Act, 1883, for the words "from the date of the actual advance of the last instalment", the words "from the date of the advance of the last instalment actually paid" shall be substituted and shall be deemed to have been substituted with effect from the commencement of the said Act.

ACT No. XIX OF 1899.<sup>1</sup>

[28th July, 1899.]

An Act to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act.

WHEREAS it is provided by section 169 of the Army Act<sup>2</sup> that the Governor General in Council may declare the amount of the local currency which is to be deemed, for the purposes of the said Act, to be equivalent to any sum of British currency mentioned therein;

And whereas it is expedient, in exercise of the power so conferred, to provide for the conversion into British Indian currency of sums expressed in British currency in the said Act;

It is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the Currency Conversion (Army Act, 1899;

(2) It extends to the whole of British India; 4\* \* \* \* \*

Rate of  
exchange  
fixed for  
calculating  
the equiva-  
lent in  
British  
Indian  
currency of  
sums of  
British  
currency  
mentioned in  
the Army  
Act.

5[2. For the purposes of the Army Act or of any similar Act for the time being in force, fifteen rupees of British Indian currency shall be deemed to be the equivalent of one pound of British currency, and any sum of British currency mentioned in the said Act or in any similar Act as aforesaid shall be deemed to be the equivalent of a sum of British Indian currency calculated at that rate of exchange.]

3. [Duration of Act.] Rep. by Act VII of 1900, s. 2.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 85; for Proceedings in Council, see *ibid*, Pt. VI, pp. 189 and 191.

<sup>2</sup> Col. Stat., Vol. II.

<sup>3</sup> The word "Annual" was repealed by Act VII of 1900, s. 2.

<sup>4</sup> The word "and" and sub-section (3) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>5</sup> This section was substituted by Act VII of 1900, s. 1.

ACT XXIII OF 1899.<sup>1</sup>

[27th September, 1899.]

## An Act to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India.

WHEREAS there are in British India Kirk Sessions of the Church of Scotland which have been duly constituted to be Church Courts for ecclesiastical purposes in pursuance of Acts of the General Assembly of the Church of Scotland;

And whereas it is expedient that such Kirk Sessions and any others which may hereafter be so constituted, should be incorporated with the powers hereinafter provided;

It is hereby enacted as follows:—

1. (1) This Act may be called the Church of Scotland Kirk Sessions Act, 1899; Short title and extent.

(2) It extends to the whole of British India; 2\* \* \* \*.

2. (1) Every Kirk Session which has been, or may hereafter be, duly constituted to be a Church Court for ecclesiastical purposes in pursuance of an Act of the General Assembly of the Church of Scotland, is hereby declared to be, and the same shall be, a body corporate having perpetual succession and a common seal. Scotch Kirk Sessions to be bodies corporate.

(2) A notification by the Governor General in Council in the Gazette of India that a Kirk Session has been duly constituted<sup>3</sup> in pursuance of an Act of the General Assembly of the Church of Scotland shall be conclusive proof that it has been so constituted.

3. (1) Every Kirk Session constituted as aforesaid shall, as a body corporate, have power to acquire and hold any property which has been, or may hereafter be, vested in it for the purposes of the Congregation Power to hold and dispose of property.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 79; for Proceedings in Council, see *ibid*, Pt. VI, pp. 181, 212 and 213.

<sup>2</sup> The word "and" and sub-section (3) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> For notification declaring the Kirk Sessions at Calcutta, Madras, Bombay and Allahabad to be duly constituted, see Gazette of India, 1900, Pt. I, p. 484; for similar notifications in respect of the Kirk Session at Simla and the Kirk Session at Poona, see *ibid*, 1904, Pt. I, p. 831, and *ibid*, 1905, Pt. I, p. 706, respectively; at Rawalpindi and Karachi, see *ibid*, 1917, Pt. I, p. 1097, and *ibid*, 1921, Pt. I, p. 856, respectively.

for which it has been, or may hereafter be, constituted, or of any trust which may have been, or may hereafter be, accepted by it, to transfer the same, to contract and to do all other things necessary for, or incidental to, the purposes of its constitution or of any such trust as aforesaid.

(2) The signature of the Moderator and Treasurer or Session-clerk for the time being of a Kirk Session constituted as aforesaid shall, if affixed on behalf and by order of the Kirk Session, be sufficient for all purposes for which the signature of the Kirk Session is required.

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ACT No. II of 1900.<sup>1</sup>

[2nd February, 1900.]

### An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, IV of 1882. 1882; It is hereby enacted as follows:—

Short title:

1. (1) This Act may be called the Transfer of Property Act, 1900;

2\* \* \* \*

Addition to  
section 3,  
Act IV,  
1882.

2. In section 3 of the Transfer of Property Act, 1882, after the definition of “ attached to the earth ” the following shall be inserted, namely:—

IV of 1882.

“ ‘ Actionable claim’ means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interests in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent.”

Amendment  
of section 6,  
Act IV,  
1882.

3. In section 6 of the same Act—

(i) in clause (e) the words “ for compensation for a fraud or for harm illegally caused ” shall be omitted; and

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 90; for Report of the Select Committee, see *ibid.*, 1900, p. 17; for Proceedings in Council, see *ibid.*, 1899, Pt. VI, pp. 190 and 242; *ibid.*, 1900, p. 19.

<sup>2</sup> The word “and” and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

of 1872.

- (ii) in clause (h) the words “ for an illegal purpose ” shall be omitted and instead thereof the words “ for an unlawful object or consideration within the meaning of section 23 of the Indian Contract Act, 1872,” shall be inserted.

4. For Chapter VIII of the same Act, the following Chapter shall be substituted, namely :—

Substitution  
of new Chap-  
ter for Chap-  
ter VIII,  
Act IV,  
1882.

## “ CHAPTER VIII.

### OF TRANSFERS OF ACTIONABLE CLAIMS.

130. (1) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not :

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

*Exception.*—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

#### *Illustrations.*

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

Notice to be  
in writing,  
signed.

131. Every notice of transfer of an actionable claim shall be in writing signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Liability of  
transferee  
of actionable  
claim.

132. The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

#### *Illustrations.*

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

Warranty of  
solvency of  
debtor.

133. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Mortgaged  
debt.

134. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery : secondly, in or towards satisfaction of the amount for the time being secured by the transfer ; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

Assignment  
of rights  
under marine  
or fire policy  
of insurance.

135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Incapacity  
of officers  
connected  
with Courts  
of Justice.

136. No Judge, legal practitioner or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim and no Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

137. Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods. Saving of negotiable instruments, etc.

*Explanation.*—The expression ‘mercantile document of title to goods’ includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.”

5. So much of the Policies of Insurance (Marine and Fire) Assign-  
 V of 1866. ment Act, 1866, as is unrepealed, and so much of the Indian Short  
 XIV of 1897, Titles Act, 1897, as relates thereto, are hereby repealed. Repeal.

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## THE PRISONERS ACT, 1900.

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## (Part I.—Preliminary. Part II.—General.)

ACT No. III OF 1900.<sup>1</sup>

[2nd February, 1900.]

## An Act to consolidate the law relating to Prisoners confined by order of a Court.

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court; It is hereby enacted as follows :—

## PART I.

## PRELIMINARY.

Short title,  
and extent.

1. (1) This Act may be called the Prisoners Act, 1900;

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti: 2\*

2\*                   \*                   \*                   \*                   \*                   \*

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “ Court ” includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) “ prison ” includes any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail.

## PART II.

## GENERAL.

Officers in  
charge of  
prisons to  
detain per-  
sons duly  
committed  
to their  
custody.

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 101; for Report of the Select Committee, see *ibid.*, 1900, p. 23; for Proceedings in Council, see *ibid.*, 1899, Pt. VI, pp. 102 and 242; *ibid.*, 1900, p. 21.

The Act has been declared in force in the District of Angul under s. 5 of the Angul Laws Regulation, 1913 (3 of 1913), B. & O. Code.

<sup>2</sup> The word “and” and sub-section (3) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

*(Part II.—General. Part III.—Prisoners in the Presidency-towns.)*

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Officers in charge of prisons to return writs, etc., after execution or discharge.

## PART III.

## PRISONERS IN THE PRESIDENCY-TOWNS.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police-officer within the local limits of such jurisdiction.

Warrants, etc., to be directed to Police-officers.

6. The Local Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this Part.

Power for Local Governments to appoint Superintendents of Presidency prisons.

*Explanation.*—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as “the Superintendent”.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent, together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

Delivery of persons sentenced to imprisonment or death by High Court.

8. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation or penal servitude of such person shall be deemed to commence from such delivery.

Delivery of persons sentenced to transportation or penal servitude by High Court.

9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

Delivery of persons committed by High Court in execution of a decree or for contempt.

*(Part III.—Prisoners in the Presidency-towns.)*

Delivery of  
persons sen-  
tenced by  
Presidency  
Magistrates.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

Delivery of  
persons  
committed  
for trial by  
High Court.

11. Every person committed by a Magistrate <sup>1</sup>[or Justice of the Peace] for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of Commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

Custody  
pending  
hearing by  
High Court  
under sec-  
tion 350 of  
the Code of  
Civil Proce-  
dure of ap-  
plication for  
insolvency.

12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure,<sup>2</sup> of any application for a declaration of **XIV of 1882.** insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of <sup>2</sup>section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is re-delivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

Delivery of  
persons  
arrested in  
pursuance of  
warrant of  
High Court  
or Civil  
Court in  
Presidency-  
town.

13. (1) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction.

(2) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court,

<sup>1</sup> These words were substituted for the words "Justice of the Peace or Coroner" by s. 11 of the Coroners (Amendment) Act, 1908 (4 of 1908).

<sup>2</sup> This reference should be construed as applying to the Provincial Insolvency Act, 1920, (5 of 1920), see s. 83 (2) of that Act.

(Part III—Prisoners in the Presidency-towns. Part IV.—Prisoners outside the Presidency-towns.)

or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

#### PART IV.

##### PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

15. (1) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued—

(a) by any Court or tribunal acting, whether within or without British India, under the general or special authority of Her Majesty, or of the Governor General in Council, or of any Local Government; or

(b) by any Court or tribunal in the territories of any Native Prince or State in India—

(i) if the presiding Judge, or if the Court or tribunal consists of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to sit as such Judge by the Native Prince or State or by the Governor General in Council, and

(ii) if the reception, detention or imprisonment in British India or in any province of British India of persons sentenced by any such Court or tribunal has been authorized by general or special order by the Governor General in Council or the Local Government, as the case may be; or

(c) by any other Court or tribunal in the territories of any Native Prince or State in India, with the previous sanction of the Governor General in Council or of the Local Government in the case of each such sentence, order or warrant.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

Power for officers in charge of prisons to give effect to sentences of certain Courts.

(2) Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence

*(Part IV.—Prisoners outside the Presidency-towns.)*

of an officer of the British Government, and such sentence has been considered on the merits and confirmed by any such officer specially authorized in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor General in Council.

Warrant of officer of such Court to be sufficient authority.

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.

17. (1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Local Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

Execution in British India of certain capital sentences not ordinarily executable there.

18. (1) Where a British Court<sup>1</sup> exercising, in or with respect to territory beyond the limits of British India, jurisdiction which the Governor General in Council has in such territory,—

(a) has sentenced any person to death; and

(b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in British India, has issued its warrant for the execution of such sentence to the officer in charge of a prison in British India,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

V of 1898

<sup>1</sup> For notification authorising certain such British Courts to send their warrants to jails in British India which may be notified by the Governor General in Council, see Brit. Enact, N. S., and for notification appointing certain jails in British India to which such Courts may send their warrants, for the execution of capital sentences, see *ibid.*; see also Ben. R. and O.; Mad. R. and O.; Bom. R. and O. and C. P. R. and O.

(Part IV.—Prisoners outside the Presidency-towns. Part V.—Persons under Sentence of Penal Servitude.)

(2) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid shall be such as the Governor General in Council or a Local Government authorized by the Governor General in Council in this behalf may, by general or special order, direct.<sup>1</sup>

(3) A Court shall be deemed to be a British Court for the purposes of this section if the presiding Judge, or if the Court consist of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to act as such Judge by any Native Prince or State in India or by the Governor General in Council :

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consist of more than one Judge, be signed by a Judge who is an officer of the British Government authorized as aforesaid.

## PART V.

### PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

19. (1) Every person under sentence of penal servitude may be confined in such prison within <sup>2</sup>[the Province] as the <sup>2</sup>[Local Government,] by general order, directs, and may, while so confined, be kept to hard labour and, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons under sentence of rigorous imprisonment may, for the time being, by law be dealt with.

(2) The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

20. Every enactment now in force in British India with respect to persons under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as is consistent with this Act, be construed to apply to persons under sentence of penal servitude.

<sup>1</sup> For notification authorizing certain such British Courts to send their warrants to jails in British India which may be notified by the Governor General in Council, see Brit. Enact., N. S. and for notification appointing certain jails in British India to which such Courts may send their warrants, for the execution of capital sentences, see *ibid*; see also Ben. R. and O., Mad. R. and O., Bom. R. and O. and C. P. R. and O.

<sup>2</sup> These words were substituted for the words "British India" and "Governor General in Council", respectively, by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

Persons under sentence of penal servitude how to be dealt with.

Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

## (Part V.—Persons under Sentence of Penal Servitude.)

Power to  
grant license  
to person  
sentenced to  
penal servi-  
tude.

<sup>1</sup>[21. (1) The Local Government may grant to any person under sentence of penal servitude a license to be at large within such part of the Province and during such portion of his term of penal servitude as may be specified in the license and upon such conditions as the Governor General in Council may by general or special order prescribe.

(2) The Local Government may revoke or, subject to such conditions, alter any license granted under sub-section (1).]

Licensee to  
be allowed  
to go at  
large.

22. So long as any license granted under section 21, sub-section (1), continues in force and unrevoked, the licensee shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of the license.

Apprehen-  
sion of con-  
vict where  
license  
revoked.

23. In case of the revocation of any such license as aforesaid, any Secretary to the <sup>2</sup>[Local Government] may, by order in writing, signify to any Justice of the Peace or Magistrate that the license has been revoked, and require him to issue a warrant for the arrest of the licensee, and such Justice or Magistrate shall issue his warrant accordingly.

Execution of  
warrant.

24. A warrant issued under section 23 may be executed by any officer to whom it is directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where it is executed.

Licensee  
when arrest-  
ed to be  
brought up  
for recom-  
mitment.

25. (1) When the licensee, for whose arrest a warrant has been issued under section 23, is arrested thereunder, he shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom the warrant was issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the licensee has been arrested.

(2) Such Justice or Magistrate as aforesaid shall thereupon make out a warrant under his hand and seal for the recommitment of the licensee to the prison from which he was released under the license.

Recommit-  
ment.

26. When a warrant has been issued under section 25, sub-section (2), the licensee shall be recommitted accordingly, and shall thereupon

<sup>1</sup> This section was substituted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>2</sup> These words were substituted for the words "Government of India" by s. 2 and Sch. I, *ibid.*

(Part V.—Persons under Sentence of Penal Servitude. Part VI.—  
Removal of Prisoners.)

be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

27. If a license is granted under section 21 upon any condition specified therein, and the licensee—

Penalty for breach of condition of the license.

- (a) violates any condition so specified; or
- (b) goes beyond the limits so specified; or
- (c) knowing of the revocation of the license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid arrest;

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

## PART VI.

### REMOVAL OF PRISONERS.

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

29. (1) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison—

Removal of prisoners.

- (a) under sentence of death, or
- (b) under, or in lieu of, a sentence of imprisonment or transportation, or
- (c) in default of payment of a fine, or
- (d) in default of giving security for keeping the peace or for maintaining good behaviour,

to any other prison in British India <sup>2</sup>[or to any prison in Berar].

<sup>1</sup> This section was substituted for the original section by s. 3 and Sch. II of the Repealing and Amending Act, 1903 (1 of 1903).

<sup>2</sup> These words were added by s. 2 of the Prisoners (Amendment) Act, 1923 (17 of 1923).

## (Part VI.—Removal of Prisoners.)

(2) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province <sup>1</sup>[or, in the case of a prisoner so confined in a prison in the Central Provinces, for his removal to any other prison in the Province or to any prison in Berar].

Lunatic pri-  
soners  
how to be  
dealt with.

30. (1) Where it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Local Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the Local Government that the prisoner has become of sound mind, the Local Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 9 of the Lunatic Asylums Act, 1858, <sup>XXXVI of 1858.</sup> shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

<sup>2</sup>[(4) In any case in which the Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Local Government may order his removal to any such asylum or place within any

<sup>1</sup> These words were added by s. 2 of the Prisoners (Amendment) Act, 1923 (17 of 1923).

<sup>2</sup> This sub-section was substituted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

(Part VI.—Removal of Prisoners. Part VII.—Persons under Sentence of Transportation.)

other Province or within the territories of any Native Prince or State in India by agreement with the Local Government of such other Province or with such Native Prince or State, as the case may be; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.]

31. [Removal of prisoners from territories under one Local Government to territories under another.] Rep. by the Repealing and Amending Act, 1903 (I of 1903).

## PART VII.

### PERSONS UNDER SENTENCE OF TRANSPORTATION.

32. 1[(1)] The 2[Local Government] may appoint places<sup>3</sup> within 2[the Province] to which persons under sentence of transportation shall be sent; and the Local Government, or some officer duly authorized<sup>4</sup> in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

Appoint-  
ment of  
places for  
confinement  
of persons  
under sen-  
tence of  
transporta-  
tion and  
removal  
thereto.

<sup>5</sup>[(2)] In any case in which the Local Government is competent under sub-section (1) to appoint places within the Provinces and to order the removal thereto of persons under sentence of transportation, the Local Government may appoint such places in any other Province by agreement with the Local Government of that Province, and may by like agreement give orders or duly authorise some officer to give orders for the removal thereto of such persons.]

<sup>1</sup> Section 32 was re-numbered 32 (1) by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>2</sup> These words were substituted by s. 2 and Sch. I, *ibid.*

<sup>3</sup> For Jails appointed to be places to which persons sentenced to be transported may be sent, see different Local Rules and Orders.

<sup>4</sup> For notifications issued under this power, see different Local Rules and Orders.

<sup>5</sup> This sub-section was added by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

(Part VIII—Discharge of Prisoners. Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

## PART VIII.

### DISCHARGE OF PRISONERS

Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

**33.** Any Court established under the <sup>1</sup>Indian High Courts Act, 1861, <sup>24 & 25</sup> Vict., c. 104. may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

## PART IX.

### PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE.

#### *Attendance of Prisoners in Court.*

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

**34.** In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Power for Civil Courts to require appearance of prisoner to give evidence.

**35.** Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

District Judge in certain cases to countersign orders made under section 35.

**36.** (1) Where an order under section 35 is made in any civil matter pending—

(a) in a Court subordinate to the District Judge, or

(b) in a Court of Small Causes outside a Presidency-town,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

(i) the District Judge to which the Court is subordinate, or

(ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(Part IX. —Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

(2) Every order submitted to the District Judge under sub-section (1) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison :

Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the District Magistrate to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Order to be transmitted through Magistrate of the district or sub-division in which person is confined.

39. (1) Where a person is confined in a prison within a Presidency-town or in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required, shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court may, if it thinks fit, make an

Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required.

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(2) The High Court making an order under sub-section (1) shall send it to the District or Sub-Divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, or, in the case of a person confined in a prison within a Presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Persons  
confine  
beyond  
limits of  
appellate  
jurisdiction  
of High  
Court.

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government of the territories within which the prison is situate, and the Local Government may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the Governor General in Council may prescribe.

Prisoner to  
be brought  
up.

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

Power to  
Government  
to exempt  
certain  
prisoners  
from  
operation of  
this Part.

42. 1 \* \* \* The Local Government may, by notification<sup>2</sup> in 3 \* \* \* the local official Gazette, 4 \* \* \* direct that any person or any class of persons shall not be removed from the prison in which he or they may

<sup>1</sup> The words "The Governor General in Council or" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>2</sup> For rules made under this section in conjunction with s. 51, see different Local Rules and Orders.

<sup>3</sup> The words "the Gazette of India or" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>4</sup> The words "as the case may be" were omitted by s. 2 and Sch. I, *ibid.*

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

be confined ; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

43. In any of the following cases, that is to say,—

- (a) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed ; or
- (b) where the person named in any such order is under committal for trial ; or
- (c) where the person named in any such order is under a remand pending trial or pending a preliminary investigation ; or
- (d) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined ;

Officer in charge of prison when to abstain from carrying out order.

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued a statement of the reason for so abstaining :

Provided that such officer as aforesaid shall not so abstain where—

- (i) the order has been made under section 37 ; and
- (ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed ; and
- (iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

*Commissions for Examination of Prisoners.*

Commissions  
for examina-  
tion of  
prisoners.

44. In any of the following cases, that is to say,—

- (a) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it; or
- (b) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or
- (c) where the District Judge declines, under section 36, to counter-sign an order for removal;

the Court may, if it thinks fit, issue a commission, under the provisions of the <sup>1</sup>Code of Civil Procedure, for the examination of the person in the XIV of 1882. prison in which he is confined.

Commissions  
for examina-  
tion of  
prisoners  
beyond  
limits of  
appellate  
jurisdiction  
of High  
Court.

45. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the <sup>1</sup>Code of Civil Procedure, for the XIV of 1882. examination of the person in the prison in which he is confined.

Commission  
how to be  
directed.

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

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<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908).

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

*Service of Process on Prisoners.*

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof. Process how served on prisoners.

48. (1) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process. Process served to be transmitted at prisoner's request.

(2) Such certificate as aforesaid shall be *prima facie* evidence of the service of the process; and, if the person to whom the process is directed, requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

*Miscellaneous.*

49. (1) For the purposes of this Part, the Courts of Small Causes established in the Presidency-towns and the Courts of Presidency Magistrates shall be deemed to be subordinate to the High Court of Judicature at Fort William, Madras or Bombay, as the case may be. Application of Part in certain cases.

\* \* \* \* \*

50. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court : Deposit of costs.

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such

<sup>1</sup> The second and third paragraphs were repealed by the Lower Burma Courts Act, 1900 (VI of 1900), s. 48.

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence. The First Schedule.)

Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the <sup>1</sup>Code of Civil Procedure.

XIV of 1882.

Power to  
make rules  
under this  
Part.

51. (1) The Local Government, and in cases arising under section 40, the Governor General in Council, may make rules<sup>2</sup>—

- (a) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance;
- (b) for regulating the amount to be allowed for the costs and charges of such escort; and
- (c) for the guidance of officers in all other matters connected with the enforcement of this Part.

(2) All rules made under sub-section (1) shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall, from the date of such publication, have the same force as if enacted by this Act.

Power to  
declare who  
shall be  
deemed  
officer in  
charge of  
prison.

52. The Local Government may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.<sup>3</sup>

53. [Repeals.] Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).

### THE FIRST SCHEDULE.

(See sections 35 and 37.)

Court of

To the officer in charge of the (state name of prison).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the said has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of

(Countersigned) A. B.  
C. D.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

<sup>2</sup> For rules, see Gen. R. and O. and different Local Rules and Orders.

<sup>3</sup> For notifications issued under this section, see different Local Rules and Orders.

(The Second and Third Schedules.)

1900 : Act VII.]

Currency Conversion.

## THE SECOND SCHEDULE.

(See section 37.)

Court of

To the officer in charge of the (state name of prison).

You are hereby required to produce , now a prisoner in  
 , under safe and sure conduct before the Court of at  
 on the day of next by

of the clock in the forenoon of the same day, there to answer a charge now  
 pending before the said Court, and after such charge has been disposed of or the said  
 Court has dispensed with his further attendance, cause him to be conveyed under safe  
 and sure conduct back to the said prison.

The day of

A. B.

(Countersigned) C. D.

[THE THIRD SCHEDULE.] Repealed by s. 3 and Sch. II of the  
 Repealing and Amending Act, 1914 (10 of 1914).

ACT No. VII OF 1900.<sup>1</sup>

[22nd March, 1900.]

An Act to amend and provide for the further continuance of  
 the Currency Conversion (Army Annual) Act, 1899.

WHEREAS it is expedient to amend the Currency Conversion (Army  
 Annual) Act, 1899, and to provide for its further continuance; It is  
 hereby enacted as follows :—

1. For section 2 of the said Act the following shall be substituted,  
 namely :—

[Vide supra, p. 174.]

2. [Repeals.] Repealed by s. 3 and Sch. II of the Repealing and  
 Amending Act, 1914 (X of 1914).

Substitution  
 of a new  
 section for  
 section 2,  
 Act XIX of  
 1899.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1900, Pt. V, p. 75;  
 for Proceedings in Council, see *ibid*, Pt. VI, pp. 46 and 81.

ACT No. XII OF 1900.<sup>1</sup>

[22nd August, 1900.]

An Act to amend the Law of Evidence with respect to  
Bankers' Books.

WHEREAS it is expedient to amend the Bankers' Books Evidence Act, 1891; It is hereby enacted as follows:—

XVIII of  
1891.

Short title. 1. (1) This Act may be called the Bankers' Books Evidence Act, 1900; 2 \* + \* \* \*.

Amended definition of "company". 2. For the definition of "company" contained in section 2, sub-section (1), of the said Act, the following shall be substituted, namely:—

"(1) 'company' means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent."

ACT No. II OF 1901.<sup>3</sup>

[22nd February, 1901.]

An Act to amend the law relating to the exemption from tolls  
of persons and property belonging to the Army <sup>4</sup>[or Air  
Force].

WHEREAS certain officers, soldiers, [airmen<sup>4</sup>] and other persons, and certain animals, baggage and carriages belonging or attached to the Army [or to the Air Force]<sup>4</sup>, are exempted by section 143 of the Army Act<sup>5</sup> [or by section 143 of the Air Force Act]<sup>4</sup> from payment of certain duties or tolls;

44 & 45  
Vict., c. 58.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1900, Pt. V, p. 89; for Proceedings in Council, see *ibid*, Pt. VI, pp. 164 and 174.

The Act has been extended to the Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), B. & O. Code, see Calcutta Gazette, 1901, Pt. I, p. 673.

<sup>2</sup> The word "and" and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 175; for Report of the Select Committee, see *ibid*, 1901, Pt. V, p. 7; for Proceedings in Council, see *ibid*, 1900, Pt. VI, p. 236; *ibid*, 1901, Pt. VI, pp. 11 and 16.

<sup>4</sup> These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

<sup>5</sup> Coll. Stat., Vol. I.

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said Army Act;

And whereas it is expedient to remove the inconsistency now existing between the said Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army <sup>1</sup>[or Air Force] from payment of certain tolls;

And whereas it is declared by section 169 of the said Army Act <sup>1</sup>[and by section 169 of the said Air Force Act] that "it shall be lawful for the Governor General of India . . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor General . . . . to be better adapted to the pecuniary means of the inhabitants; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act," and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said Army Act <sup>1</sup>[and by section 143 of the said Air Force Act]; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tolls (Army) Act, 1901. Short title,  
extent and  
commence-
- (2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and
- (3) It shall come into force on the first day of April, 1901.
2. In this Act, unless there is anything repugnant in the subject or Definitions.  
context,—

(a) "ferry" includes every bridge and other thing which is a ferry within the meaning of any enactment authorizing the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890:

IX of 1890.

(b) the expression "His Majesty's Regular Forces" has the meaning assigned to it by section 190, clause (8), of the <sup>2</sup>Army Act, and includes <sup>1</sup>[His Majesty's Regular Air Force as defined by section 190, clause (8), of the Air Force Act and also] the Indian Reserve Forces when subject to military law:

44 & 45  
Vict., c. 58.

<sup>1</sup> These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

<sup>2</sup> Coll. Stat., Vol. I.

- (c) "horse" includes a mule and any beast of whatever description which is used for burden or draught or for carrying persons :
- (d) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888, and includes <sup>IV of 1888.</sup> persons holding commissions in the Indian Army Reserve of Officers when called out in any military capacity :
- (e) "landing-place" includes a pier, wharf, quay, jetty and a stage, whether fixed or floating :
- (f) the expression "local corps" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the Erinpura Irregular Force, the Meywar Bhil Corps, the Merwara Battalion and the Escort of the Resident in Nepal, and includes any other corps which may be notified by the Governor General in Council in this behalf by order published in the Gazette of India :
- (g) "public authority" means the Government or a local authority ; and so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879,<sup>1</sup> or <sup>42 & 43</sup> <sup>Vict., c. 41,</sup> section 51 of the Indian Railways Act, 1890, includes such a <sup>IX of 1890.</sup> railway company : and
- (h) "tolls" include duties, dues, rates, rents, fees and charges, but do not include customs-duties levied under the Indian Tariff Act, 1894, octroi-duties or town-duties on the import <sup>VIII of 1894.</sup> of goods, or fares paid for the conveyance of passengers on a tramway.

**Exemptions  
from tolls.**

**3. The following persons and property, namely :—**

- (a) all officers, [soldiers and airmen]<sup>2</sup> of—
  - (i) His Majesty's Regular Forces,  
[and all officers and soldiers of—]<sup>3</sup>
  - (ii) any local corps, or
  - (iii) Imperial Service Troops,
 when on duty or on the march,

<sup>1</sup> Coll. Stat., Vol. I.

<sup>2</sup> These words were substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

<sup>3</sup> These words were inserted by s. 2 and Sch. I, *ibid.*

- (b) all members of a corps of Volunteers when on duty or when proceeding to or returning from duty,
- (c) all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,
- (d) all grass-cutters when employed in the service of—
  - (i) His Majesty's Regular Forces,
  - (ii) any local corps,
  - (iii) Imperial Service Troops, or
  - (iv) any corps of Volunteers,
- (e) all other authorized followers of—
  - (i) His Majesty's Regular Forces,
  - (ii) any local corps,
  - (iii) Imperial Service Troops, or
  - (iv) any corps of Volunteers,when they accompany any body of such Forces, Troops or Volunteers or any members of such corps on the march, or when they are otherwise moving under the orders of military<sup>1</sup>[or air-force] authority,
- (f) all members of the families of officers, soldiers, <sup>1</sup>[airmen] or authorized followers of—
  - (i) His Majesty's Regular Forces, or
  - (ii) any local corps,when accompanying any body of troops, or any officer, soldier, <sup>1</sup>[airman] or authorized follower thereof on duty or on the march,
- (g) all prisoners under military <sup>1</sup>[or air-force] escort,
- (h) the horses and baggage, and the persons (if any) employed in carrying the baggage, of any persons exempted under any of the foregoing clauses, when such horses, baggage or

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<sup>1</sup> These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

persons accompany the persons so exempted under the circumstances mentioned in those clauses respectively,

- (i) all carriages and horses belonging to His Majesty or employed in His Majesty's military <sup>1</sup>[or air-force] service and all persons in charge of or accompanying the same, when conveying any such persons as hereinbefore in this section mentioned, or when conveying baggage or stores, or when returning unladen from conveying such persons, baggage or stores,
- (j) all carriages and horses, when moving under the orders of military <sup>1</sup>[or air-force] authority for the purpose of being employed in His Majesty's military <sup>1</sup>[or air-force] service,
- (k) all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and
- (l) all persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively,

shall be exempted from payment of any tolls—

- (i) on embarking or disembarking, or on being shipped or landed, from or upon any landing-place, or
- (ii) in passing along or over any turnpike or other road or bridge, or
- (iii) on being carried by means of any ferry,

otherwise demandable by virtue of any Act, Ordinance, Regulation, order or direction of any legislature or other public authority in British India :

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or property along any canal from payment of tolls in like manner as other boats, barges and vessels.

Tolls on  
vessels  
transporting  
of—  
troops and  
baggage,  
etc., of  
troops  
embarked  
or dis-  
embarked.

4. (1) No tolls shall be leviable by any local authority in respect

- (a) any vessel employed by the Government solely for the transport of troops, or

<sup>1</sup> These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

(b) the horses, baggage or other effects of any troops embarking or disembarking at any port, or

(c) carriages belonging to His Majesty or employed in His Majesty's military <sup>1</sup>[or air-force] service embarking or disembarking at any port.

(2) In respect of all such vessels or troops, their families, their horses, baggage and their effects, or any such carriages as aforesaid, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by the Government, and shall receive payment for all such services and accommodation on such terms and for such periods as may from time to time be determined by the Government in consultation with such local authority.

5. Any person who demands and receives any toll in contravention <sup>Penalty.</sup> of the provisions of section 3 or section 4 shall be punishable with fine which may extend to fifty rupees.

6. (1) If any owner or lessee, or any Company, railway administration or local authority claims compensation for any loss alleged to have <sup>Compensation.</sup> been incurred owing to the operation of this Act, the claim shall be submitted to the Local Government.

(2) On receiving any such claim, the Local Government, subject to the control of the Governor General in Council, shall pass such order thereon as justice requires, and shall give all necessary directions for the purpose of ascertaining the facts of the case and of assessing the compensation, if any, to be paid.

7. (1)<sup>2</sup> The Governor General in Council, and the Local Government, with the previous sanction of the Governor General in Council, may make rules to carry out the purposes and objects of this Act. <sup>Rules.</sup>

(2) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council, or the Local Government, with the previous sanction of the Governor General in Council, may make rules providing for the form of passes to be given to persons or bodies of persons or in respect of property entitled to exemption from the payment of tolls under this Act.

<sup>1</sup> These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

<sup>2</sup> For rules showing the form of passes and the circumstances in which certain persons do not require passes, see Gazette of India, 1903, Pt. I, p. 968; Gen. R. & O.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the Gazette of India, or in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

8. [Repeals.] Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).

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[THE SCHEDULE.] Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).

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ACT No. X of 1901.<sup>1</sup>

[11th October, 1901.]

### An Act further to amend the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the Court-fees Act, 1870; VII of 1870. It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Court-fees (Amendment) Act, 1901; 2\* \* \* \*

Addition of new section after section 1, Act VII, 1870.

2. After section 1 of the Court-fees Act, 1870, the following section shall be added, namely :— VII of 1870.

“ Chief Controlling Revenue-authority ” defined.

“ 2. In this Act, unless there is anything repugnant in the subject or context, ‘ Chief Controlling Revenue-authority ’ means—

(a) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 101; for Proceedings in Council, see *ibid*, 1901, Pt. VI, pp. 214 and 218.

The Act has been declared in force in the Sonthal Parganas by notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), B. & O. Code, see Calcutta Gazette, 1902, Pt. I, p. 310.

<sup>2</sup> The word “ and ” and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

- Governors of Bengal and the <sup>1</sup>North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue;
- (b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner;
- (c) in Sindh—the Commissioner;
- (d) in the Punjab and Burma, including Upper Burma—the Financial Commissioner; and
- (e) <sup>2</sup>elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf.”

3. (1) In sections 19A and 19E of the said Act, for the words “of the Province” the words “for the local area” shall be substituted.

(2) In section 19H, sub-section (2), of the said Act, for the same words the words “for the local area in which the High Court is situated” shall be substituted.

Amendment  
of sections  
19A, 19E  
and 19H,  
Act VII,  
1870.

### ACT No. XI OF 1901.<sup>3</sup>

[25th October, 1901.]

## An Act to facilitate the citation of certain enactments and to amend <sup>4</sup> \* \* certain <sup>5</sup> \* enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the First Schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the Second Schedule to this Act;

6\* \* \* \* \*

<sup>1</sup> Read now the Lieutenant-Governor of the United Provinces of Agra and Oudh, see s. 2 of the United Provinces (Designation) Act, 1902 (7 of 1902).

<sup>2</sup> As to the North-West Frontier Province, see s. 6 (1) (2) of the North-West Frontier Province Law and Justice Regulation, 1901 (7 of 1901), Punj. and N.-W. F. Code.

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 117; for Proceedings in Council, see *ibid.*, 1901, Pt. VI, pp. 218 and 219.

<sup>4</sup> The words “and repeal” were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>5</sup> The word “obsolete” was repealed by s. 3 and Sch. II, *ibid.*

<sup>6</sup> The last paragraph of the preamble was repealed by the Repealing and Amending Act, 1903 (1 of 1903).

## (The First Schedule.)

It is hereby enacted as follows :—

**Title.** 1. (1) This Act may be called the 1\* \* Amending Act, 1901; 2 \* \* \*

**Citation of certain enactments.**

2. Each of the enactments specified in the first three columns of the First Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

**Enactments amended.**

3. (1) The enactments specified in the Second Schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3 \* \* \*

4. [Savings.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

## THE FIRST SCHEDULE.

### (CITATION OF ENACTMENTS.)

(See section 2.)

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations.</i>			
1802	III	A Regulation for receiving, trying and deciding suits or complaints, declared cognizable in the Courts of Adalat established in the several Zillas immediately subject to the Presidency of Fort St. George.	The Madras Administration of Estates Regulation, 1802.

<sup>1</sup> The words "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

<sup>2</sup> The word "and" and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> Sub-section (2) was repealed by the Repealing and Amending Act, 1903 (1 of 1903).

## (The First Schedule.)

## THE FIRST SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—contd.</i>			
1802	XIX	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue lending money to Zamindars, independent Taluqdars or other actual Proprietors of land, or dependent Taluqdars or Farmers of land, holding farms immediately of Government; or the Underfarmers or Raiyats of the several descriptions of Proprietors and Farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.
"	XXV	A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under the permanent assessment of the land-revenue in the British territories subject to the Presidency of Fort St. George.	The Madras Permanent Settlement Regulation, 1802.
"	XXVI	A Regulation for governing the sale and sub-division of malguzari lands in the British territories subject to the Presidency of Fort St. George.	The Madras Land-registration Regulation, 1802.
"	XXIX	A Regulation for establishing the office of Karnam, and defining the duties of the said office, in the British territories subject to the Presidency of Fort St. George.	The Madras Karnams Regulation, 1802.
1803	I	A Regulation for defining the duties of the Board of Revenue, and for determining the extent of the powers vested in the Board of Revenue.	The Madras Board of Revenue Regulation, 1803.
"	II	A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.	The Madras Collectors Regulation, 1803.
1804	V	A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the rules under which those powers are to be exercised.	The Madras Court of Wards Regulation, 1804.
* *	*	* * *	* *

<sup>1</sup> The entry relating to Madras Regulation 7 of 1808 was repealed by the Repealing Act, 1927 (12 of 1927).

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—contd.</i>			
1816	I	A Regulation for declaring the contributions hitherto paid in the Province of Tanjore on account of the Kavali Police, appropriable to the support of the new Police established or to be established, in that Province, and for regulating the collection and assessment of those contributions.	The Tanjore Police Regulation, 1816.
1*	*	* * *	* *
1816	XI	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.	The Madras Village-police Regulation, 1816.
„	XII	A Regulation for authorizing Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary, as also certain disputes respecting the occupying, cultivating and irrigating of land to be tried and determined by Village and District Panchayats, and for prescribing the Rules under which the trial of such disputes shall be conducted and the decisions of the Panchayats carried into execution.	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges or other public purposes, for the maintenance and repair of bridges, choultries or chattrams and other public buildings, and for the custody and disposal of escheats.	The Madras Endowments and Escheats Regulation, 1817.
„	VIII	A Regulation for expediting the trial of civil suits in which the Native officers and soldiers attached to regular Corps in the Madras Command may be parties, and for giving to them certain facilities in the maintenance and recovery of their rights, claims and interests.	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1819	II	A Regulation for the confinement of State Prisoners.	The Madras State Prisoners Regulation, 1819.

<sup>1</sup> The entry relating to Madras Regulation 5 of 1816 was repealed by the Repealing Act, 1927 (12 of 1927).

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—contd.</i>			
1821	IV	A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.	The Madras Village-police Regulation, 1821.
1822	IV	A Regulation declaring the true intent and meaning of Regulation XXV of 1802 so far as it relates to the rights of the actual cultivators of the soil.	The Madras Permanent Settlement (Interpretation) Regulation, 1822.
„	VII	A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may, from time to time, see fit to issue.	The Madras Native Public Officers Regulation, 1822.
„	IX	A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs, for prescribing the rules to be observed in such investigations and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collectors' jurisdiction, and for providing for the admission and trial of Appeals from the summary decisions of Collectors in such cases.	The Madras Revenue Malversation Regulation, 1822.
1823	III	A Regulation for declaring the powers of Subordinate and Assistant Collectors in the execution of the provisions of Regulation IX of 1822.	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts and for facilitating proceedings under Regulation IX of 1822.	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1829	V	A Regulation for modifying section 16, Regulation III, 1802, and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law according to the authorities prevalent in the respective Provinces under this Government.	The Madras Hindu Wills Regulation, 1829.

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—concl'd.</i>			
1830	I	A Regulation for declaring the practice of Sati or of burning or burying alive the Widows of Hindus illegal and punishable by the Criminal Courts.	The Madras Sati Regulation, 1830.
1831	V	A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.	The Madras Stamp Penalties Regulation, 1831.
"	VI	A Regulation to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices.	The Madras Hereditary Offices Regulation, 1831.
"	X	A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.	The Madras Sale of Minors' Estates Regulation, 1831.
1832	III	A Regulation for limiting the period within which plaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible to the Courts of Adalat.	The Madras Revenue Malversation (Amendment) Regulation, 1832.
<i>Part II.—Acts of the Governor General in Council.</i>			
1837	XXXVI	An Act to extend the application of Madras Regulations IX of 1822 and VII of 1828.	The Madras Public Property Malversation Act, 1837.
1839	VII	An Act to invest Tahsildars within the Presidency of Fort St. George with certain powers in respect of property distrained for arrears of rent or revenue.	The Madras Rent and Revenue Sales Act, 1839.
"	XXIV	An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.	The Ganjam and Vizagapatam Act, 1839.
1840	VIII	An Act concerning the signing of awards by the members of Panchayats.	The Madras Panchayats Act, 1840.

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part II.—Acts of the Governor General in Council—contd.</i>			
1844	VI	An Act for the levy of inland customs-duties within the territories subject to the Government of Fort St. George.	The Madras Inland Customs Act, 1844.
1849	X	An Act for appointing a Commissioner of Revenue at Madras.	The Madras Revenue Commissioner Act, 1849.
1851	XII	An Act for securing the land-revenue of Madras.	The Madras City Land-revenue Act, 1851.
1854	XXIV	An Act to prohibit the possession of certain offensive weapons in Malabar.	The Malabar War-knives Act, 1854.
1*	*	* * * * *	* * * * *
1857	VII	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	The Madras Uncovenanted Officers Act, 1857.
2*	*	* * * * *	* * * * *
1858	I	An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.	The Madras Compulsory Labour Act, 1858.
1859	XX	An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.	The Moplah Outrages Act, 1859.
"	XXIV	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	The Madras District Police Act, 1859.
3*	*	* * * * *	* * * * *
1877	XIX	An Act to enable certain District Judges to suspend and remove certain ministerial officers and for other purposes.	The Madras Civil Courts (Amendment) Act, 1877.
1882	XXI	An Act to remove doubts regarding the Madras Forest Act, 1882.	The Madras Forest (Validation) Act, 1882.

<sup>1</sup> The entry relating to Act 21 of 1855 was repealed by the Repealing Act, 1927 (12 of 1927).

<sup>2</sup> The entry relating to Act 27 of 1857 was repealed, *ibid.*

<sup>3</sup> The entry relating to Act 30 of 1865 was repealed, *ibid.*

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part II.—Acts of the Governor General in Council—concl'd.</i>			
1884	II	An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.	The Madras Partition-deeds (Validation) Act, 1884.
1889	V	An Act to abolish the office of Coroner of Madras.	The Coroners (Madras) Act, 1889.
<i>Part III.—Acts of the Governor of Fort St. George in Council.</i>			
1862	IV	An Act to exempt enfranchised inams from the operation of Regulation IV of 1831 and Acts XXXI of 1836 and XXIII of 1838.	The Madras Enfranchised Inams Act, 1862.
1864	II	An Act to consolidate the laws for the recovery of Arrears of Revenue in the Madras Presidency.	The Madras Revenue Recovery Act, 1864.
1865	I	An Act to provide for the alteration of the limits of Districts or Zilas in the Madras Presidency.	The Madras District Limits Act, 1865.
"	V	An Act to amend Act XXIV of 1859	The Madras District Police (Amendment) Act, 1865.
"	VI	An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.	The Madras Official Seals Act, 1865.
"	VII	An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.	The Madras Irrigation Cess Act, 1865.
1*	*	* * * * *	* * * * *
1866	II	An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.	The Madras Cattle-disease Act, 1866.
"	IV	An Act to exempt enfranchised Village or other Service Inams, whether Revenue or Police, from the operation of Regulation VI of 1831.	The Madras Enfranchised Inams Act, 1866.

<sup>1</sup> The entry relating to Mad. Act 8 of 1865 was repealed by the Repealing Act, 1927 (12 of 1927).

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—contd.</i>			
1867	VI	An Act to amend Act XII of 1851 ( <i>an Act for securing the Land-revenue of Madras</i> ).	The Madras City Land-revenue (Amendment) Act, 1867
1869	III	An Act to empower Revenue-officers to summon persons to attend at their Kachahris for the settlement of matters connected with Revenue administration.	The Madras Revenue Summons Act, 1869.
"	VIII	An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of inams heretofore furnished to inam-holders by the Inam Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.	The Madras Inams Act, 1869.
1873	I	An Act to prevent the indiscriminate destruction of Wild Elephants.	The Madras Wild Elephants' Preservation Act, 1873.
1876	I	An Act to make better provision for the separate assessment of alienated portions of permanently settled estates.	The Madras Land-revenue Assessment Act, 1876.
1878	VII	An Act to provide for the payment from Municipal Funds of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George.	The Madras Municipal Police Act, 1878.
1879	I	An Act to amend Madras Act II of 1866 (the Cattle-disease Prevention Act).	The Madras Cattle-disease (Amendment) Act, 1879.
1884	III	The Madras Revenue Recovery Act Amendment Act.	The Madras Revenue Recovery (Amendment) Act, 1884.

<sup>1</sup> The entry relating to Mad. Act 5 of 1866 was repealed by the Repealing Act, 1927 (12 of 1927).

<sup>2</sup> The entries relating to Mad. Acts 2 and 7 of 1871 were repealed, *ibid.*

<sup>3</sup> The entry relating to Mad. Act VII of 1884 was repealed by the Madras City Municipal Act, 1904 (Mad. Act 3 of 1904).

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—contd.</i>			
1885	II	An Act to amend the Madras Rivers Conservancy Act, 1884.	The Madras Rivers Conservancy (Amendment) Act, 1885.
1*	*	* * * * *	* * * * *
2*	*	* * * * *	* * * * *
1893	II	An Act to amend section 13 of the Land Customs Act, VI of 1844.	The Madras Inland Customs (Amendment) Act, 1893.
„	V	An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.	The Madras Revenue Enquiries Act, 1893.
1894	I	An Act to provide further for the conduct of business by the Board of Revenue.	The Madras Board of Revenue Act, 1894.
1895	II	An Act to amend Madras Act II of 1890.	The Madras Canals and Public Ferries (Amendment) Act, 1895.
1896	I	An Act to limit the local extent of the Madras Rent Recovery Act, VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1896.
„	II	An Act to amend the Madras General Clauses Act, I of 1891.	The Madras General Clauses (Amendment) Act, 1896.
1897	I	An Act to amend the Madras Revenue Recovery Act, II of 1864.	The Madras Revenue Recovery (Amendment) Act, 1897.
„	II	An Act to amend Madras Act No. III of 1895 (the Madras Hereditary Village-offices Act, 1895).	The Madras Hereditary Village-offices (Amendment) Act, 1897.
1898	I	An Act to amend the Malabar Marriage Act, 1896.	The Malabar Marriage (Amendment) Act, 1898.

<sup>1</sup> The entries relating to Mad. Acts 3 of 1886, 3 of 1890 and 1 of 1892 were repealed by the Repealing Act, 1927 (12 of 1927).

<sup>2</sup> The entry relating to Mad. Act 2 of 1892 was repealed by the Madras City Municipal Act, 1904 (Mad. Act 3 of 1904).

(The First and Second Schedules.)

THE FIRST SCHEDULE—*concl'd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—concl'd.</i>			
1*	*	* * * * *	* * * * *
1898	III	An Act to amend the Madras City Police Act, 1888.	The Madras City Police (Amendment) Act, 1898.
2*	*	* * * * *	* * * * *
3*	*	* * * * *	* * * * *
1899	IV	An Act to amend Madras Regulation V of 1884.	The Madras Court of Wards (Amendment) Act, 1899.
4*	*	* * * * *	* * * * *
1900	IV	An Act to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Madras Survey and Boundaries Act, 1897.	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.
"	V	An Act to amend Madras Act VII of 1865.	The Madras Irrigation Cess (Amendment) Act, 1900.

## THE SECOND SCHEDULE.

## ENACTMENTS AMENDED.

[See section 3, sub-section (1).]

1	2	3	4
Year.	No.	Short title.	Amendment.
<i>Part I.—Madras Regulations.</i>			
1802	XXVI	The Madras Land Registration Regulation, 1802.	In the title, for the words sale and sub-division of Mālguzari lands <i>substitute</i> registration of landed estates paying revenue to the Government. In the preamble, omit the words from Whereas it is necessary to such lands; and; and for the words such land <i>substitute</i> landed estates paying revenue to the Government.

<sup>1</sup> The entry relating to Mad. Act 2 of 1898 was repealed by the Repealing Act, 1927 (12 of 1927).

<sup>2</sup> The entry relating to Mad. Act 1 of 1899 was repealed, *ibid.*

<sup>3</sup> The entry relating to Mad. Act 2 of 1899 was repealed by the Madras City Municipal Act, 1904 (Mad. Act 3 of 1904).

<sup>4</sup> The entry relating to Mad. Act 3 of 1900 was repealed by the Repealing Act, 1927 (12 of 1927).

(The Second and Third Schedules.)

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
<i>Part I.—Madras Regulations—contd.</i>			
1817	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.	For the title as amended by the Repealing and Amending (Army) Act, 1894, <i>substitute the following</i> :  A Regulation for regulating the procedure where the estate of a native officer or soldier in the Madras Command becomes liable to sale for an arrear of revenue.
1822	IV	The Madras Permanent Settlement (Interpretation) Regulation, 1822.	In the title, <i>for the words and figures</i> Regulations XXV, XXVIII and XXX of 1802, so far as they relate, <i>read</i> Regulation XXV of 1802, so far as it relates.  In section 2, <i>for the words and figures</i> Regulations XXV, XXVIII and XXX of 1802, <i>read</i> Regulation XXV of 1802.
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.	For the title <i>substitute the following</i> : A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.
1829	V	The Madras Hindu Wills Regulation, 1829.	In the preamble, <i>for the words</i> clause second of the said section, <i>read</i> clause second of section 16 of the Madras Administration of Estates Regulation, 1802.
1*	*	* * * * *	* * * * *
<i>Part III.—Acts of the Governor of Fort St. George in Council.</i>			
1862	IV	The Madras Enfranchised Inams Act, 1862.	For the title, <i>substitute the following</i> :  An Act to declare what shall be proof of the enfranchisement of inams.
1866	V	The Madras Labour and Emigration Act, 1866.	To section 21 <i>add</i> But nothing in this Act shall apply to the emigration of labourers to any of the labour-districts in the Province of Assam from any local area to which the provisions of the Assam Labour and Emigration Act, 1901, for the time being apply.
2*	*	* * * * *	* * * * *

[THE THIRD SCHEDULE.—*Enactments repealed.*] Repealed by the Repealing and Amending Act, 1903 (I of 1903).

<sup>1</sup> The entry under Part II of the Schedule was repealed by s. 2 of the Glanders and Farcy Law Amendment Act, 1910 (12 of 1910).

<sup>2</sup> The entry relating to Mad. Act 5 of 1884 was repealed by s. 2 and Sch. I of Mad. Act 14 of 1920.

ACT No. III OF 1902.<sup>1</sup>

[14th February, 1902]

An Act further to amend the Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships.

VII of 1884. WHEREAS it is expedient further to amend the <sup>2</sup>Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships; It is hereby enacted as follows:—

1. This Act may be called the Indian Steam-ships (Amending and <sup>Short title.</sup> Validating) Act, 1902.

2. [Amendment of section 23, Act VII, 1884.] Repealed by section 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

3. [Amendment of section 25, Act VII, 1884.] Repealed by section 296 and Sch. V of the Indian Merchant Shipping Act, 1923 (XXI of 1923).

VII of 1884. 4. All certificates of competency granted under the authority of the Commissioner in Sind between the first day of December 1885, and the third day of July 1900, to certify the competency of the grantees thereof to act as engine-drivers of steam-ships, shall be deemed to have been granted under the Indian Steam-ships Act, 1884, and shall be recognised as valid for voyages of those classes with reference to which they were granted: <sup>Validation of certain certificates granted in Sind to engine-drivers of steam-ships.</sup>

Provided that nothing in this section shall be deemed to affect such certificates in any other respect.

ACT No. IV OF 1902.<sup>3</sup>

[14th February, 1902]

An Act to apply the provisions of the Indian Railway Companies Act, 1895, to certain Tramway Companies.

X of 1895. WHEREAS by the Indian Railway Companies Act, 1895, the Railway Companies therein mentioned are authorized to pay interest on their

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 103; for Report of the Select Committee, see *ibid*, 1902, Pt. V, p. 23; for Proceedings in Council, see *ibid*, 1901, Pt. VI, p. 214; *ibid*, 1902, Pt. VI, pp. 2, 6 and 21.

<sup>2</sup> This Act has been repealed by the Indian Merchant Shipping Act, 1923 (XXI of 1923).

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 105; for Report of the Select Committee, see *ibid*, 1902, Pt. V, p. 27; for Proceedings in Council, see *ibid*, 1901, Pt. VI, p. 14; *ibid*, 1902, Pt. VI, pp. 2, 6 and 21.

paid-up share capital out of capital in the manner and on the conditions prescribed by the said Act;

AND WHEREAS it is expedient to apply the provisions of the said Act to Companies formed for the construction of tramways not differing in structure and working from light railways;

It is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the Indian Tramways Act, 1902; and
- (2) It extends to the whole of British India.

Application  
of Act X,  
1895, to  
Tramway  
Companies.

2. The Governor General in Council may, by notification in the Gazette of India, direct that the provisions of the Indian Railway Companies Act, 1895, in so far as the same are applicable, shall apply to X of 1895. any Company formed for the construction of a tramway under the Bengal Tramways Act, 1883<sup>1</sup>, or the Indian Tramways Act, 1886, and Ben. Act III of 1883. thereupon it shall be lawful for the Tramway Company mentioned in XI of 1886. the notification to pay interest upon its paid-up share capital out of capital in the manner and subject to the conditions prescribed by the said Indian Railway Companies Act, 1895. X of 1895.

#### ACT No. VII OF 1902.<sup>2</sup>

[26th March, 1902]

An Act to recognise and give effect to a change in the constitution and designation of the territories formerly known as the North-Western Provinces and Oudh.

WHEREAS the territories formerly administered by the Chief Commissioner of Oudh have been united under one Local Government with those administered by the Lieutenant-Governor of the North-Western Provinces;

AND WHEREAS it has been resolved that the territories so united in one Lieutenant-Governorship shall be known as " the United Provinces of Agra<sup>3</sup> and Oudh ";

AND WHEREAS it is expedient to recognize and give effect to the change so made in the constitution and designation of the said territories;

<sup>1</sup> Ben. Code.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1902, Pt. V, p. 63; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 51 and 54.

<sup>3</sup> See Proclamation No. 996P., dated the 22nd March 1902, Gazette of India, 1902, Pt. I, p. 228.

It is hereby enacted as follows:—

1. This Act may be called the United Provinces (Designation) Act, Short title. 1902.

2. In every enactment heretofore passed and now in force, and in every appointment, order, scheme, rule, by-law, notification or form made or issued thereunder, all references to the North-Western Provinces and Oudh shall be construed as referring to the United Provinces of <sup>References in existing enactments to North-Western Provinces and Oudh.</sup> ~~North-Western Provinces and Oudh~~, all references to the North-Western Provinces and to the Province of Oudh, respectively, shall be construed as referring to the corresponding territories as comprised in the United Provinces of ~~North-Western Provinces and Oudh~~ <sup>References in existing enactments to North-Western Provinces and Oudh.</sup> ~~North-Western Provinces and Oudh~~, all references to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the United Provinces of ~~North-Western Provinces and Oudh~~ <sup>References in existing enactments to North-Western Provinces and Oudh.</sup> ~~North-Western Provinces and Oudh~~, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the United Provinces of ~~North-Western Provinces and Oudh~~ <sup>References in existing enactments to North-Western Provinces and Oudh.</sup> ~~North-Western Provinces and Oudh~~ in Council.

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ACT No. VIII of 1902<sup>1</sup>.

[7th June, 1902.]

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, ~~III~~ of 1894. 1894; It is hereby enacted as follows:—

1. (1) This Act, may be called the Indian Tariff (Amendment) Act, Short title, 1902; and

2\*

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1902, Pt. V, p. 68; for Proceedings in Council, see *ibid*, Pt. VI, pp. 149 and 156.

<sup>2</sup> Sub-sec. (2), which was in the following terms, viz., "It shall remain in force until the thirty-first day of August 1903", was repealed and s. 8B (added to the Indian Tariff Act, 1894, by s. 2 of this Act), which had in virtue of that sub-section expired from the 31st August, 1903, was revived and continued in force with effect from the first day of April, 1904, by Act 11 of 1904. Duties chargeable under this section were continued in force under s. 8C of the Indian Tariff Act, 1894 (8 of 1894), until the 31st March, 1904. See s. 1 (2) of the Indian Tariff Amendment Act, 1903 (12 of 1903).

Addition of  
new section  
8B after  
section 8A,  
Act VIII,  
1894.

2. After section 8A of the Indian Tariff Act, 1894, as amended by VIII of 1894, the Indian Tariff Amendment Act, 1899, the following section shall be XIV of 1899, added, namely :—

Special im-  
port-duty on  
sugar in  
certain cases.

1“ 8B. (1) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

(2) The Governor General in Council may from time to time, by general or special order, declare, for the purposes of sub-section (1),—

(a) what articles or substances containing any saccharine matter shall be deemed to be ‘sugar’ and what kinds of sugar shall be deemed to be ‘refined sugar’ or ‘other sugar’, respectively; and

(b) what sums in the currency of British India shall be deemed to be the equivalent of ‘francs’ and ‘centimes’, respectively.

(3) The amount of the excess referred to in sub-section (1) shall be from time to time ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (1).”

3. [Act not to apply in certain cases.] Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1914 (X of 1914).

<sup>1</sup> See foot-note 2 on prepage.

ACT No. I OF 1903.<sup>1</sup>

[6th March, 1903.]

An Act to facilitate the citation of certain enactments <sup>2</sup>[and] to  
amend certain enactments <sup>3</sup>\* \*

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act;

AND WHEREAS it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

4\* \* \* \* \*

It is hereby enacted as follows :—

1. This Act may be called the <sup>5</sup>\* \* Amending Act, 1903. Short title.

2. Each of the enactments described in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof. Citation of certain enactments.

3. The enactments specified in the second schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

4. [Repeal of certain enactments.] Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1914 (X of 1914).

5. [Savings.] Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1914 (X of 1914).

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 72; for Proceedings in Council, see *ibid*, Pt. VI, pp. 6 and 15.

The Act has been declared in force in—

the Sonthal Parganas, by notification under s. 3 (3) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), B. & O. Code, see Calcutta Gazette, 1904, Pt. I, p. 227;

the Angul District, under s. 3 of the Angul Laws Regulation, 1913 (3 of 1913), see B. & O. Code, Vol. I.

<sup>2</sup> This word was inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> The words "and to repeal certain other enactments" were repealed by s. 3 and Sch. II, *ibid*.

<sup>4</sup> The third clause was repealed, *ibid*.

<sup>5</sup> The words "Repealing and" were repealed, *ibid*.

## THE FIRST SCHEDULE.

## SHORT TITLES.

(See section 2.)<sup>1</sup>

1	2	3	4
Year.	No.	Title or subject.	Short title.

*Part II.—Acts of the Governor General in Council.*

2*	*	* * * * *	* * * * *
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## THE SECOND SCHEDULE.

## AMENDMENTS.

(See section 3.)<sup>3</sup>

1	2	3	4
Year.	No.	Subject or short title.	Amendments.

*Part II.—Acts of the Governor General in Council.*

1861	V	The Police Act, 1861 . . .	In section 34, <i>after imprisonment insert</i> with or without hard labour.
1867	III	The Public Gambling Act, 1867.	In the title, <i>for the Central Provinces and British Burma substitute</i> and the Central Provinces.  In the preamble, <i>for of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma, substitute</i> and of the Chief Commissioner of the Central Provinces.

<sup>1</sup> Part I, which relates to Regulations of the Bengal Code, and Part III, which refers to Bengal Acts alone, are omitted.

<sup>2</sup> The entry relating to Act 7 of 1876 was repealed by the Repealing Act, 1927 (12 of 1927).

<sup>3</sup> Part I of the Second Schedule, which relates to Bengal Regulations only, is omitted, and only so much of Part II as relates to General Acts is reproduced here.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendment.
1867	III	The Public Gambling Act, 1867— <i>contd.</i>	In section 1, for the definitions of Lieutenant-Governor and Chief Commissioner substitute the following, namely :—  “Lieutenant-Governor ” means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be.  “Chief Commissioner ” means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 82, for certificates of marriages and also for marriage certificates, substitute certificates for marriage.  In Schedule II, after declaration insert or oath.
1879	XIV	The Hackney Carriage Act, 1879.	In section 3, for The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, substitute The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
„	XVIII	The Legal Practitioners Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9) before the words and figures Act I of 1846 insert So much of Chapter VI of Bombay Regulation II of 1827 as has not been repealed.
1*	*	* * * * *	* * * * *

<sup>1</sup> The entry relating to Act 13 of 1889 was repealed by s. 31 of the Cantonments Act, 1910 (15 of 1910).

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.

*Part II.—Acts of the Governor General in Council—contd.*

1897	X	The General Clauses Act, 1897.	<p>In section 3, clauses (5), (6), (30) and (35), <i>after under insert the Indian Councils Act, 1861, or.</i></p> <p>In section 3, <i>after clause (8), insert the following :—</i></p> <p>(8a) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892.</p> <p>In section 3, <i>after clause (44), insert the following :—</i></p> <p>(44a) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892.</p> <p>In section 3, <i>after clause (55), insert the following :—</i></p> <p>(55a) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892.</p> <p>In section 20, <i>before the word order, in each of the places in which it occurs, insert notification.</i></p> <p>In section 21, <i>for make substitute issue notifications, between the words any and orders insert notifications, and for made substitute issued.</i></p> <p>In section 24, <i>before the word order, in each of the places in which it occurs, insert appointment, notification; and before the word issued, in each of the places in which it occurs, insert made or.</i></p>
1898	V	The Code of Criminal Procedure, 1898.	<p>In section 260, sub-section (1), clause (i), <i>after 451 insert 453, 454.</i></p> <p>In section 555, <i>for 553 substitute 554.</i></p>

## THE SECOND SCHEDULE—concl'd.

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
<i>Part II.—Acts of the Governor General in Council—concl'd.</i>			
1898	V	The Code of Criminal Procedure, 1898— <i>cont'd.</i>	<p>In the second schedule, column 5, against section 195, for <i>Bailable substitute</i> Not bailable.</p> <p>In the second schedule, column 8, against section 506, for <i>Ditto substitute</i> Presidency Magistrate or Magistrate of the first or second class.</p> <p>In the heading to the fifth schedule, for 554 <i>substitute</i> 555.</p> <p>In the fifth schedule, Form IV, for within days from this date <i>substitute</i> on the day of .</p> <p>In the fifth schedule, Forms XIII and XIV, for the passage from comply where it occurs for the second time to released <i>substitute</i> be lawfully ordered to be released.</p>
1900	III	The Prisoners Act, 1900	<p>For section 29 <i>substitute</i> the following :—</p> <p>29. (1) The Governor General in Council. Removal of oil, may, by general or prisoners. special order, provide for the removal of any prisoner confined in a prison—</p> <p>(a) under sentence of death, or</p> <p>(b) under, or in lieu of, a sentence of imprisonment for transportation, or</p> <p>(c) in default of payment of a fine, or</p> <p>(d) in default of giving security for keeping the peace or for maintaining good behaviour,</p> <p>to any other prison in British India.</p> <p>(2) The Local Government and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.</p>
1*	* * *	* * * * *	* * * * *

\* Parts III, IV and V relate to Bengal and Burma, respectively, and are therefore omitted.

[*THE THIRD SCHEDULE.—Repeals.*] Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1914 (X of 1914).

ACT No. II of 1903.<sup>1</sup>

[6th March, 1903.]

## An Act to amend the Indian Post Office Act, 1898.

WHEREAS it is expedient to amend the Indian Post Office Act, 1898; VI of 1898. It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Post Office (Amendment) Act, 1903.

Addition to Act VI of 1898, section 2, clause (b).

2. At the end of clause (b) of section 2 of the Indian Post Office Act, VI of 1898, the following shall be added, namely :—

“ Provided that the expression ‘ inland ’ shall not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification.”

## THE INDIAN WORKS OF DEFENCE ACT, 1903.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 75; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 8 and 15. The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), B. and O. Code, Vol. I, p. 803, see Cal. Gazette, 1904, Pt. I, p. 227.

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ACT No. VII of 1903.<sup>1</sup>

[20th March, 1903]

An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition; It is hereby enacted as follows :—

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## PART I.

### PRELIMINARY.

1. (1) This Act may be called the Indian Works of Defence Act, Short title and extent. 1903; and

(2) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In this Act, unless there is something repugnant in the subject or Definitions. context,—

(a) the expression “ land ” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

(b) the expression “ person interested ” includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1902, Pt. V, p. 84; for Report of the Select Committee, see *ibid*, 1903, p. 105; for Proceedings in Council, see *ibid*, 1902, Pt. VI, p. 175; *ibid*, 1903, pp. 14 and 50.

The Act has been declared in force in the Angul District by s. 3 of the Angul Laws Regulation, 1913 (III of 1913), B. & O. Code, Vol. I.

*(Part I.—Preliminary.)*

interested in land if he is interested in an easement affecting the land :

- <sup>1</sup>[(c) the expression “ District ” means one of the Districts into which India is, for military purposes for the time being, divided ; it includes a Brigade area which does not form part of any District, and any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act :
- (d) the expression “ General Officer Commanding the District ” means the officer for the time being in command of the forces in a District :]
- (e) the expression “ Commanding Officer ” means the officer for the time being in command of a work of defence :
- (f) the expression “ Collector ” includes any officer specially appointed by the Local Government to perform the functions of a Collector under this Act :
- (g) the expression “ Court ” means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- (h) “ maintain,” with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (1) and (3), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section (2) :
- (i) the following persons shall be deemed “ entitled to act ” as and to the extent hereinafter provided, that is to say,—  
trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any

<sup>1</sup> These clauses were substituted by s. 2 of the Indian Works of Defence (Amendment) Act, 1921 (11 of 1921).

## (Part I.—Preliminary.)

case, and that to the same extent as the persons beneficially interested could have acted if free from disability :  
 a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age : and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

- (i) no person shall be deemed “entitled to act” whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;
- (ii) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;
- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure<sup>1</sup> shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and
- (iv) no person “entitled to act” shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

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<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Schedule I, Order XXXII.

## (Part II.—Imposition of Restrictions.)

## PART II.

## IMPOSITION OF RESTRICTIONS.

Declaration and notice that restrictions will be imposed.

3. (1) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(2) The said declaration shall be published in the local official Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(3) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

Power to do preliminary acts after publication of notice under section 3. sub-section (2).

4. It shall be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, at any time after publication of the notice mentioned in section 3, sub-section (2), to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether any and, if so, what restrictions should be imposed on the use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

*(Part II.—Imposition of Restrictions.)*

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Payment for  
damage.

6. (1) Whenever a declaration has been made and public notice thereof has been given under section 3, it shall, subject to the provisions of sub-sections (2) to (4), be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, to enter and demolish any buildings or other constructions on the surface, to cut down or grub up all or any of the trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally to level and clear the said land and do all such acts for levelling and clearing the same as he may deem necessary or proper, but in such manner nevertheless that evidence of the boundaries of the lands held by different owners may be preserved.

Further  
powers exer-  
ciseable  
after publi-  
cation of  
notice under  
section  
3, sub-sec-  
tion (2).

(2) The powers conferred by sub-section (1) shall not be exercised,—

- (a) save as otherwise provided by sub-section (3), before the making of the award hereinafter referred to in section 12, nor
- (b) save as otherwise provided by sub-section (4), after the expiration of six months from the making of the said award, or any shorter period on the expiration of which the officer exercising such powers gives notice to the Collector that there will be no further exercise of them.

(3) In case of emergency, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that all or any powers conferred by sub-section (1) may be exercised at any time within six months after the publication of the notice referred to in section 3, sub-section (2), and such powers may be exercised accordingly, and the said notification shall be conclusive proof of emergency.

(4) Nothing in sub-section (2) shall be deemed to preclude any such officer or his servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or

*(Part II.—Imposition of Restrictions.)*

other obstruction maintained, created, added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rule or order made thereunder or of any condition prescribed in accordance therewith.

**Restrictions.** 7. From and after the publication of the notice mentioned in section 3, sub-section (2), such of the following restrictions as the Local Government may in its discretion declare therein shall attach with reference to such land, namely :—

(a) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (4), may extend to a distance of two thousand yards from the crest of the outer parapet of the work,—

(i) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the <sup>1</sup>[General Officer Commanding the District], and on such conditions as he may prescribe ;

(ii) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored or otherwise accumulated :

Provided that, with the written approval of the <sup>1</sup>[General Officer Commanding the District] and on such conditions as he may prescribe, road-ballast, manure and agricultural produce may be exempted from the prohibition :

Provided also that any person having control of the land as owner, lessee or occupier shall be bound forthwith to remove such road-ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer ;

(iii) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of military authority, by the Commanding Officer and, in other cases, by the Collector with the concurrence of the Commanding Officer ; and

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<sup>1</sup> These words were substituted by s. 3 of the Indian Works of Defence (Amendment) Act, 1921 (11 of 1921).

*(Part II.—Imposition of Restrictions.)*

(iv) where any building, wall, bank or other construction above the ground has been permitted under clause (1) of this sub-section to be maintained, erected, added to or altered, repairs shall not without the written approval of the <sup>1</sup> [General Officer Commanding the District] be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(b) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (a) shall apply with the following additional limitations, namely :—

(i) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the <sup>1</sup> [General Officer Commanding the District] and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials easily destroyed or removed may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation, upon an order in writing signed by the <sup>1</sup> [General Officer Commanding the District]; and

(ii) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the <sup>1</sup> [General Officer Commanding the District] and on such conditions as he may prescribe.

(c) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (a) and (b) shall apply with the following additional limitation, namely :—

no building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open

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<sup>1</sup> These words were substituted by s. 3 of the Indian Works of Defence (Amendment) Act, 1921 (11 of 1921).

*(Part II.—Imposition of Restrictions.)*

railings and dry brush-wood fences may be exempted from this prohibition.

Land to be  
marked out,  
measured,  
registered  
and planned.

8. As soon as may be after the publication of the declaration aforesaid, the Collector shall cause the land to be marked out and measured, and shall also prepare a register and a detailed plan, which shall be on a scale not smaller than six inches to the mile, showing accurately every building, tree and other obstruction.

Notice to  
persons  
interested.

9. (1) At any time before the expiration of—

(a) the period of eighteen months from the publication of the declaration referred to in section 3, or

(b) such other period not exceeding three years from the said publication as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, direct in this behalf,

the Collector shall cause public notice to be given at convenient places on or near the land, stating the effect of the said declaration and that claims to compensation for all interests in such land affected by anything done or ordered in pursuance of such declaration may be made to him :

Provided that, where anything has been done in exercise of the powers conferred, in case of emergency, by section 6, sub-section (3), the notice prescribed by this section shall be given as soon as may be thereafter.

(2) Such notice shall state the particulars of any damage ordered to be done or, in the case referred to in section 6, sub-section (3), done in exercise of any of the powers conferred by the said section, and the particulars of any restrictions attaching to the land under section 7, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for damage to such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

*(Part II.—Imposition of Restrictions)*

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business.

10. The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Power to require and enforce the making of statements as to names and interests.

11. Every person required to make or deliver a statement under section 9 or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Application of certain sections of the Indian Penal Code.

12. On the day fixed under section 9 or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated pursuant to a notice given under the said section to the measurements made under section 8, and into the decrease in the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

Inquiry and award by Collector.

(a) the true area of the land and the nature of the obstructions from which the land is to be kept free;

(b) the compensation which in his opinion should be allowed for any damage caused or to be caused under section 6 and for any restrictions imposed under section 7; and

(c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether they have respectively appeared before him or not.

*(Part II —Imposition of Restrictions.)*

Award of  
Collector  
when to be  
final.

13. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area of the land, the nature of the said obstructions from which the land is to be kept free, the damage caused or to be caused under section 6, the value of the rights restricted under section 7, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjourn-  
ment of  
inquiry.

14. The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.

Power to  
summon and  
enforce  
attendance  
of witnesses  
and produc-  
tion of docu-  
ments.

15. For the purpose of inquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of <sup>XIV of</sup> 1882. Civil Procedure.<sup>1</sup>

Matters to be  
considered  
and neglect-  
ed.

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Supplement-  
ary proceed-  
ings.

17. Whenever the officer exercising the powers conferred by section 6 considers it necessary that anything in respect of which any person is or may be entitled to compensation but of which no notice has been given or compensation awarded, under sections 9 and 12, respectively, should be done in pursuance of the said powers, the Collector shall cause supplementary notice to be given, as nearly as may be, in the manner prescribed by section 9 and subject to the limit of time imposed by sub-section (1) of that section, and the provisions of sections 10 to 16 shall, so far as they are applicable, be deemed to apply to any further inquiry and award which may be held or made in consequence of such supplementary notice.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(Part III.—Reference to Court and Procedure thereon.)

### PART III.

#### REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested: Reference to Court.

Provided that every such application shall be made,—

- (a) if the persons making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

(2) The application shall state the grounds on which objection to the award is taken.

19. (1) In making the reference the Collector shall state for the information of the Court, in writing under his hand,— Collector's statement to the Court.

- (a) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7;
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount of compensation awarded under section 12; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing Service of notice.

*(Part III.—Reference to Court and Procedure thereon.)*

their appearance before the Court on that day, to be served on the following persons, namely :—

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

**Restriction  
on scope of  
proceedings.**

**21.** The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

**Proceedings  
to be in  
open Court.**

**22.** Every such proceeding shall take place in open Court and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act, as the case may be, in such proceeding.

**Matters to be  
considered  
in determin-  
ing com-  
pensation.**

**23. (1)** In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

- (a) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3 and any damage caused or to be caused under section 6;
- (b) the damage sustained by the person interested, by reason of the removal of any standing crops in the exercise of any power conferred by section 6;
- (c) the damage (if any) sustained by the person interested, by reason of ceasing to be able to use such land conjointly with his other land;
- (d) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings; and
- (e) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

*(Part III.—Reference to Court and Procedure thereon )*

(2) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

**24.** In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

Matters not to be considered in determining compensation.

(a) the degree of urgency which has led to the damage or the imposition of restrictions;

(b) any disinclination of the person interested to submit to damage or restrictions;

(c) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(d) any increase to the value of the other land of the person interested accruing or likely to accrue from anything done under this Act; or

(e) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

**25.** (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

Rules as to amount of compensation.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

**26.** Every award under this Part shall be in writing signed by the Judge and shall specify the amount awarded under section 23, sub-section (1), clause (a), and also the amounts (if any) respectively

Form of awards.

(Part III.—Reference to Court and Procedure thereon. Part IV.—  
Apportionment of Compensation.)

awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

**27.** (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

**28.** If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

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## PART IV.

### APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

**29.** Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

**30.** When the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

## (Part V.—Payment.)

## PART V.

## PAYMENT.

31. (1) On making an award under section 12, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2). Payment of compensation or deposit of same in Court. .

(2) If they do not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided, first, that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount .

Provided, secondly, that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided, thirdly, that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money-compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, or by the remission of land-revenue on the same or on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in sub-section (3) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

## (Part V.—Payment.)

Investment  
of money  
deposited in  
respect of  
lands belong-  
ing to person  
incompetent  
to alienate.

32. (1) If any money is deposited in Court under section 31, sub-section (2), and it appears that the land in respect of which the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(a) in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money was deposited is held, or,

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as it thinks fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same are applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the cost of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities in which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and the costs of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment  
of money  
deposited in  
other cases.

33. If any money is deposited in Court under this Act for any cause other than that mentioned in section 32, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it thinks fit, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit

## (Part V —Payment. Part VI.—Miscellaneous )

therefrom as they might have had from the land in respect of which such money was deposited or as near thereto as may be.

**34.** When the amount of any compensation awarded under this Act is not paid or deposited within fifteen days of making the award, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the date of the award until it is so paid or deposited. Payment of interest.

## PART VI.

## MISCELLANEOUS.

**35.** (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, sub-section (2), by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge. Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house and also in some conspicuous part of the land upon which restrictions are to be imposed :

Provided that, if the Collector or Judge so directs, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

**36.** Whoever wilfully—

**Penalties.**

- (a) obstructs any person in doing any of the acts authorized by section 4, section 6 or section 8, or
- (b) destroys, damages, alters or otherwise interferes with the ground-level or any work done under section 6, or
- (c) contravenes any of the provisions of section 7 or any condition prescribed thereunder,

## (Part VI.—Miscellaneous.)

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first in regard to which he is convicted of having persisted in the offence; and any expenses incurred in removing the effects of his offence may be recovered from him in the manner provided by the law for the time being in force for the recovery of fines.

Magistrate to enforce the terms of the Act.

37. If the Collector or officer authorized under section 6 is opposed or impeded in doing anything directed or permitted by this Act, he shall, if a Magistrate, enforce compliance, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras, Bombay and Rangoon) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce compliance.

Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.

38. (1) The Local Government shall be at liberty to withdraw from the imposition of any declared restrictions before any of the measures authorized by section 6 have been taken.

(2) Whenever the Local Government withdraws the imposition of any declared restrictions, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said restrictions.

(3) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

Demolition of part of house or building and imposition of restrictions on part of land.

39. (1) The provisions of this Act shall not be put in force for the purpose of demolishing or acquiring the right to demolish a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be demolished or that the right to demolish the whole of it shall be acquired :

Provided that the owner may at any time before the Collector has made his award under section 12, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory

*(Part VI.—Miscellaneous.)*

or building shall be demolished, or that the right to demolish the whole of it shall be acquired :

Provided, also, that, if any question shall arise as to whether any building or other construction proposed to be demolished under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and such building or other construction shall not be demolished until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the building or other construction proposed to be demolished is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim of the kind referred to in section 23, sub-section (1), clause (c), by a person interested, on account of ceasing to be able to use the land, upon the use and enjoyment of which restrictions are to be imposed, conjointly with his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the imposition of restrictions upon the whole of the land of which the land upon the use and enjoyment of which it was first sought to impose restrictions forms a part.

(3) In the case provided for by sub-section (2) no fresh declaration or other proceeding under sections 3 to 10 shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 12.

(4) Notwithstanding anything contained in section 7, clause (a), any land, upon the use and enjoyment of which restrictions are imposed under this section may be included in the outer boundary, even though its distance from the crest of the outer parapet of the work exceeds two thousand yards.

40. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption  
from stamp-  
duty and  
fees.

## (Part VI—Miscellaneous.)

## Tea Cess.

[1903 : Act IX.]

Notice in  
case of suits  
for anything  
done in  
pursuance  
of Act.

41. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of  
Civil Proce-  
dure to  
apply to  
proceedings  
before  
Court.

42. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure<sup>1</sup> shall apply to all proceedings before the Court under this Act.

Appeals in  
proceedings  
before  
Court.

43. Subject to the provisions of the Code of Civil Procedure<sup>1</sup> applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceeding under this Act.

Power to  
make rules.

44. (1) The Governor General in Council, and the Local Government, with the previous sanction of the Governor General in Council, may make rules for the guidance of officers in all matters connected with the enforcement of this Act.

(2) The power to make rules under sub-section (1) shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under sub-section (1) shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

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ACT No. IX OF 1903.<sup>2</sup>

[20th March, 1903.]

**An Act to provide for the levy of customs-duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894.**

WHEREAS it is expedient to provide for the creation of a fund to be expended for the promotion of the interests of the tea industry in India by a Committee specially constituted in this behalf;

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<sup>1</sup> This reference should now be construed as referring to the Code of Civil Procedure, 1908 (Act V of 1908).

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 6; for Report of the Select Committee, see *ibid*, p. 123; for Proceedings in Council, see *ibid*, Pt. VI, pp. 3, 15 and 56.

And whereas for this purpose it is expedient to levy customs-duty on tea produced in India and exported from British India, and to **VIII of 1894.** amend section 5 of the Indian Tariff Act, 1894;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tea Cess Act, 1903; and **Short title and extent.**  
(2) It extends to the whole of British India except Aden.

2. In this Act,—

**Definitions.**

(a) "Collector" means, in reference to tea exported by sea, a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878, and, in reference to tea passing out of British India by land, the Collector of the district;

**VIII of 1878.**

(b) "tea cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894, as amended by this Act; and

**VIII of 1894.**

(c) "Tea Cess Committee" means the Committee constituted under section 4.

3. On and from the first day of April 1903, a customs-duty shall be levied and collected on all tea produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of <sup>1</sup>[eight annas per hundred pounds], or at such lower rate as the Governor General in Council may, on the recommendation of the Tea Cess Committee, prescribe by notification in the Gazette of India. **Imposition of duty on exports of Indian tea.**

4. <sup>2</sup>(1) The Governor General in Council shall constitute a Committee to receive and expend the proceeds of the tea cess. **Constitution of Tea Cess Committee.**

(2) The Committee shall in the first instance consist of twenty members, who shall be appointed by the Governor General in Council on the recommendation of the following bodies and authorities, namely:—

- (a) three on the recommendation of the Bengal Chamber of Commerce, and one on the recommendation of the Madras Chamber of Commerce:

<sup>1</sup> These words were substituted by s. 2 of the Indian Tea Cess (Amendment) Act, 1921 (1 of 1921).

<sup>2</sup> For notification issued under this section establishing the Indian Tea Cess Committee, see Gen. R. and O.

(b) seven on the recommendation of the Indian Tea Association, Calcutta; and

(c) nine on the recommendation of such respective bodies or authorities interested in the production of tea in India, and established in British India, as the Governor General in Council may appoint in this behalf :

Provided that if, within the period prescribed in this behalf by rules made under this Act, any of the said bodies or authorities fails to make any recommendation, or to make the full number of recommendations which it is entitled to make, the Governor General in Council may appoint the required number of members of the Committee of his own motion without such recommendation.

(3) Whenever any member appointed either on the recommendation of any body or authority referred to in sub-section (2), or in default of such recommendation, dies, resigns, ceases to reside in British India or becomes incapable of acting as a member of the Committee, the Governor General in Council may, in his discretion, on the recommendation of such body or authority, or in default of such recommendation, appoint another person to be a member in his stead.

(4) No act done by the Tea Cess Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Committee.

Application  
of proceeds  
of tea cess.

5. (1) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the tea cess, after deducting the expenses of collection (if any), to the Tea Cess Committee.

(2) The said proceeds and any other moneys received by the Committee in this behalf shall be applied by the Committee towards meeting the cost of such measures as the Committee may consider it advisable to take for promoting the sale and increasing the consumption in India and elsewhere of teas produced in India.

Keeping and  
auditing of  
accounts.

6. (1) The Tea Cess Committee shall keep accounts of all money received and expended under section 5.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council; and such auditors may disallow any item which has, in their opinion,

been expended out of any money so received otherwise than as directed by or under this Act.

(3) If any item is disallowed, an appeal shall lie to the Governor General in Council whose decision shall be final.

7. (1) The Governor General in Council, after consulting the Tea Cess Committee and after previous publication, may make rules<sup>1</sup> to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the nomination and appointment of members of the Committee, and the procedure of the Committee;
- (b) the levy and payment of the cess; and
- (c) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon.

(3) All such rules shall be published in the Gazette of India.

VIII of  
1894.

8. In section 5 of the Indian Tariff Act, 1894, for the words “shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by and into” the words “at such rates as may be prescribed by or under this Act or by or under any law for the time being in force relating to customs-duties on imports and exports, respectively, into and from ports, shall be levied on goods passing by land out of or into” shall be substituted. Amendment of Act VIII of 1894, section 5.

9. Sections 2 to 7 shall remain in force only until the thirty-first day of March 1908 : Time during which sections 2 to 7 are to remain in force.

Provided that the Governor General in Council may, on the recommendation of the Tea Cess Committee, declare, by notification<sup>2</sup> in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification.

10. If any proceeds of the tea cess or any moneys so received as aforesaid remain unexpended when sections 2 to 7 cease to be in force, they shall vest in His Majesty. Disposal of surplus proceeds of tea cess.

<sup>1</sup> For rules, see Gazette of India, 1904, Pt. I, p. 778; Gen. B. and O., Vol. III, p. 377.

<sup>2</sup> For notification declaring that sections 2 to 7 shall remain in force till the 31st March 1933, see Gazette of India, 1928, Pt. I, p. 359.

ACT No. X OF 1903.<sup>1</sup>

[20th March, 1903.]

An Act to provide for the erection and management of the  
Victoria Memorial at Calcutta.

WHEREAS it is intended to erect at Calcutta a building as a memorial of the life and reign of Her late Majesty VICTORIA of the United Kingdom of Great Britain and Ireland, Queen, Empress of India, and for this purpose large sums of money have been subscribed by the princes and people of India;

And whereas at a meeting of subscribers held in Calcutta certain persons were appointed a Provisional Executive Committee to take the custody of the said moneys;

And whereas it is expedient to make provision for the erection, maintenance and management of the memorial and for the appointment of a permanent body of Trustees;

It is hereby enacted as follows:—

**Short title.** 1. (1) This Act may be called the Victoria Memorial Act, 1903; <sup>2</sup> \*  
2\* \* \*

**Trustees.** 2. (1) The Trustees of the Victoria Memorial (hereinafter called the Trustees) shall be the following, namely:—

- (a) the Governor General of India,
- (b) <sup>3</sup>[the Governor of Fort William in Bengal],
- (c) the Chief Justice of Bengal,
- (d) two persons of high rank nominated by the Governor General to represent the Chiefs and Nobles of India,
- (e) the Secretary to the Government of India in the Foreign Department,
- (f) the President of the Bengal Chamber of Commerce,
- (g) the Chairman of the Corporation of Calcutta, and

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 164; for Proceedings in Council, see *ibid*, Pt. VI, pp. 22 and 58.

<sup>2</sup> The word "and" and sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> These words were substituted for the words "the Lieutenant-Governor of Bengal" by s. 7 and Sch. E of the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912).

(h) such and so many persons as shall from time to time be nominated by the Trustees with the approval of the Governor General to represent the general body of subscribers.

(2) The Trustees shall be a body corporate, with perpetual succession by the name of "The Trustees of the Victoria Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act.

(3) All acts done by a majority of those present and voting at a meeting of the Trustees shall be deemed to be acts of the Trustees.

(4) No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the body of the Trustees.

(5) In the case of *ex-officio* Trustees the person for the time being performing the duties of any of the offices mentioned in sub-section (1) shall act as a Trustee.

(6) The Trustees may appoint a person to act as their Secretary.

(7) Orders for the payment of money on behalf of the Trustees shall be deemed to be sufficiently authenticated if signed by two Trustees and countersigned by the Secretary.

3. All sums of money now in the custody of the said Provisional Executive Committee and all other property, whether moveable or immoveable, which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the said Memorial or acquired for the said purposes by the Trustees shall vest in the Trustees.

4. All officers and servants employed by the Trustees shall be deemed to be public servants within the meaning of the Indian Penal Code:

Provided that this section shall not apply to persons in the service of any contractor employed by the Trustees.

5. (1) The Governor General in Council may make rules<sup>1</sup> to carry out the purposes of this Act.

<sup>1</sup> For rules, see Gazette of India, 1903, Pt. I, p. 230; Gen. R. and O., Vol. III, p. 381.

## Tariff.

[1903 : Act XII.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

- (a) for the manner in which Trustees, other than *ex-officio* Trustees, shall be appointed, and for the periods of time for which such Trustees shall hold office ;
- (b) for the manner in which meetings of the Trustees shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings ;
- (c) for the appointment of Committees of the Trustees, and the powers of expenditure and control which may be delegated to such Committees ;
- (d) for the erection, maintenance and management of the Memorial, the care and custody of the objects deposited therein, and the conditions under which the public shall have access thereto ;
- (e) for the form of accounts to be kept by the Trustees, and for the audit and publication of such accounts ; and
- (f) for the application to the officers and servants employed by the Trustees of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

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ACT No. XII of 1903.<sup>1</sup>

[28th August, 1903.]

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, <sup>VIII of</sup> 1894. 1894; It is hereby enacted as follows :—

**Short title.** 1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1903.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 461; for Proceedings in Council, see *ibid*, Pt. VI, pp. 153 and 155.

It has been declared in force in the Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1904, Pt. I, p. 227, B. and O. Code, Vol. I, p. 803.

<sup>2</sup> Sub-section (2) was repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

VIII of  
1894.  
XIV of  
1899.

2. In section 8A, sub-section (1), of the Indian Tariff Act, 1894, as amended by section 2 of the Indian Tariff Amendment Act, 1899, before the words "the exportation therefrom" the words "the production therein or" shall be inserted.

Amendment  
of section  
8A, Act  
VIII, 1894.

3. [Addition of new section 8C to Act VIII, 1894.] Repealed by S. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).

### ACT No. XIII OF 1903.<sup>1</sup>

[18th September, 1903.]

#### An Act further to amend the Lepers Act, 1898.

III of 1898. WHEREAS it is expedient further to amend the Lepers Act, 1898, by providing for the segregation and medical treatment in British India of lepers belonging to Native States; It is hereby enacted as follows :—

1. This Act may be called the Lepers (Amendment) Act, 1903. Short title.

III of 1898. 2. After section 18 of the Lepers Act, 1898, the following section shall be added, namely :

Addition of  
new section  
after section  
18, Act III,  
1898.

"19. The Governor General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native Prince or State in India, may be sent to any leper-asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper-asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act."

Lepers from  
Native  
States.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 467; for Proceedings in Council, see *ibid*, Pt. VI, pp. 158 and 163.

It has been declared in force in the Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1904, p. 227, B. and O. Code, Vol. I, p. 803.

ACT No. XIV OF 1903.<sup>1</sup>

[23rd October, 1903.]

## An Act to give effect to the Foreign Marriages Order in Council, 1903.

WHEREAS it is expedient to give effect to the Foreign Marriages Order in Council, 1903; It is hereby enacted as follows:—

Short title,  
extent and  
application.

1. (1) This Act may be called the Indian Foreign Marriage Act, 1903.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas, the Shan States and the Pargana of Spiti; and

(3) It applies also to all British subjects and to all servants of the King, whether British subjects or not, in the territories of any Native Prince or State in India.

Notice of  
marriage  
intended  
to be  
solemnized  
under 55 &  
56 Vict.,  
c. 23.

2. (1) Notice in writing of a marriage which it is intended to solemnize under the Foreign Marriage Act, 1892,<sup>2</sup> may be given by 55 & 56 Vict., c. 23. one of the parties intending such marriage, to—

- (a) a Marriage Registrar appointed under the Indian Christian XV of 1872. Marriage Act, 1872, where either of such parties is a person professing the Christian religion;
- (b) a District Magistrate, Chief Presidency Magistrate or Political Agent where neither of such parties is a person professing the Christian religion:

Provided that the party giving such notice as aforesaid shall have had his usual place of abode for not less than three consecutive weeks immediately preceding the giving of notice within the local limits of the area for which the Marriage Registrar, Magistrate or Political Agent to whom the notice is given, is appointed.

(2) Every notice given under this section shall state—

- (a) the name, surname, age and profession or condition of each of the parties intending marriage;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 466; for Proceedings in Council, see *ibid*, Pt. VI, pp. 157 and 165.

<sup>2</sup> Coll. Stat., Vol. II.

(b) the residence of each of them ;

(c) the time during which each of them has dwelt there ; and

(d) the place in which the intended marriage is to be solemnized ; and it shall contain a declaration by the party giving the notice to the effect that he believes that there is no impediment of kindred or affinity, or other lawful hindrance to the solemnization of the said intended marriage.

(3) A copy of every notice given under this section shall be published by being affixed in some conspicuous place in the office of the officer to whom the notice is given.

(4) On the expiration of four clear days after such notice as aforesaid has been published in the manner prescribed by sub-section (3), the officer to whom the notice is given, unless he is aware of any impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage shall, on payment of such fee (if any) as the Governor General in Council may fix in this behalf,<sup>1</sup> furnish the party by whom the notice was given, with a certificate, under his hand and seal, to the effect that the notice has been so given and published.

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<sup>1</sup> For rules as to such fees, *see* Gen. R. and C.

## THE INDIAN EXTRADITION ACT, 1903.

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## CHAPTER II.

## SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

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THE FIRST SCHEDULE.—EXTRADITION OFFENCES.

THE SECOND SCHEDULE.—*Enactments repealed. (Repealed.)*

(Chapter I.—Preliminary.)

ACT No. XV OF 1903.<sup>1</sup>

[4th November, 1903.]

## An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

33 & 34  
Vict., c. 52 ;  
36 & 37  
Vict., c. 60 ;  
44 & 45  
Vict., c. 69.

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870<sup>2</sup> and 1873<sup>2</sup>, and of the Fugitive Offenders Act, 1881<sup>2</sup>;

And whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply,

It is hereby enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

1. (1) This Act may be called the Indian Extradition Act, 1903. Short title,  
extent and  
commence-  
ment.
- (2) It extends<sup>3</sup> to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and
- (3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.<sup>4</sup>
2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
  - (a) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force :
  - (b) "extradition offence" means any such offence as is described in the first schedule :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 24; for Report of Select Committee, see *ibid.*, 1903, Pt. V, p. 469; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 151, 163 and 177.

<sup>2</sup> Coll. Stat., Vol. I.

<sup>3</sup> The Act has been declared to be in force in the Angul District under s. 3 of the Angul Laws Regulation, 1913 (III of 1913), B. and O. Code, Vol. I, p. 885. The Act has been declared in force in the Arakan Hill District by Regulation 1 of 1916, Bur. Code, Vol. I.

<sup>4</sup> The Act has been declared to come into force from the 1st June 1904, see Gazette of India, 1904, Pt. I, p. 364.

(Chapter I.—Preliminary. Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.)

- (c) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870<sup>1</sup> and 1873,<sup>1</sup> apply : 33 & 34  
Vict., c. 52;  
36 & 37  
Vict., c. 60.
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force :
- (e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence : and
- (f) "rules" include prescribed forms.

## CHAPTER II.<sup>2</sup>

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition  
for surrend-  
er.

3. (1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

Summons or  
warrant for  
arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

Inquiry by  
Magistrate.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

<sup>1</sup> Coll. Stat., Vol. I.

<sup>2</sup> Chapter II has been declared to have effect in British India as if it were part of the Extradition Act, 1870 (33 & 34 Vict., c. 52); see Order in Council, dated the 7th March 1904, Gazette of India, 1904, Pt. I, p. 353.

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.)

(4) If the Magistrate is of opinion that a *prima facie* case is made Committal. out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

(5) If the Magistrate is of opinion that a *prima facie* case is not Bail. made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

(6) The Magistrate shall report the result of his inquiry to the Government of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government. Magistrate's report.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided. Reference to High Court if Government thinks necessary.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant. Warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape. Lawfulness of custody and re-taking under warrant for surrender.

*(Chapter 11.--Surrender of Fugitive Criminals in case of Foreign States.)*

Discharge of  
fugitive  
criminals  
committed  
to prison  
after two  
months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it, on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to  
Magistrate  
to issue  
warrant of  
arrest in  
certain cases.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of  
warrant to  
be reported  
forthwith.  
Person  
arrested not  
to be  
detained  
unless order  
received.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

Bail.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Power of  
Government  
to refuse to  
issue order  
under  
section 3  
when crime  
of political  
character.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1).

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States. Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to discharge any person in custody at any time.

33 & 34  
Vict., c. 52;

6. The expressions “the Police Magistrate” and “the Secretary of State” in section 3 of the Extradition Act, 1870,<sup>1</sup> shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

References to “Police Magistrate” and “Secretary of State” in section 3 of Extradition Act, 1870.

### CHAPTER III.

#### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in British India, and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, <sup>2</sup>[or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town], for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Issue of warrant by Political Agents in certain cases.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall <sup>2</sup>[be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him; such accused person shall then], unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Execution of such warrant.

<sup>1</sup> Coll. Stat., Vol. I.

<sup>2</sup> These words were inserted by s. 2 of the Indian Extradition (Amendment) Act, 1913 (1 of 1913).

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate <sup>1</sup>[or Chief Presidency Magistrate] under this section as if the warrant had been issued by himself.

Release on giving security.

8. (1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

Deposit in lieu of bond, and forfeiture of bonds.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Power to report case for orders of Local Government.

8A.<sup>2</sup> Notwithstanding anything contained in section 7, sub-section (2), or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the Local

<sup>1</sup> These words were inserted by s. 2 of the Indian Extradition (Amendment) Act, 1913 (1 of 1913).

<sup>2</sup> Section 8A was inserted by s. 3, *ibid.*

*(Chapter III.—Surrender of Fugitive Criminals in case of States  
other than Foreign States.)*

Government and, pending the receipt of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section :

Requisitions  
by States  
not being  
Foreign  
States.

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

10. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Power to  
Magistrate  
to issue  
warrants of  
arrest in  
certain  
cases.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Issue of  
warrant to  
be reported  
forthwith.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Limit of  
time of  
detention  
of person  
arrested.

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)*

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for, offence in British India.

11. (1) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked :

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to convicted persons.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Abetment and attempt.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and re-taking under warrant issued under Chapter.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody,

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.)

- (d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

Definition of  
"warrant".

(3) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

Chapter not  
to derogate  
from treat-  
ties

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

## CHAPTER IV.<sup>1</sup>

### RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

Application  
of Fugitive  
Offenders  
Act, 1881.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881,<sup>2</sup> the following provisions are hereby made :—

44 & 45 Vict.,  
c. 69.

- (a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government :
- (b) the powers conferred on a "Superior Court " may be exercised by any Judge of a High Court :
- (c) the powers conferred on a " Magistrate " may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government<sup>3</sup> in that behalf : and

<sup>1</sup> An Order in Council, dated 7th March 1904, has declared that this Chapter shall be recognized and given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of the Fugitive Offenders Act, 1881 (44 and 45 Vict., c. 69).

<sup>2</sup> Coll. Stat., Vol. I.

<sup>3</sup> For notification by the Government of Madras in respect of the City of Madras, see Mad. R. and O.; by the Govt. of Bombay, see Bom. Govt. Gazette, 1912, Pt. I, p. 982; by the Govt. of Bengal, see Calcutta Gazette, 1915, Pt. I, p. 190; and Local Rules and Orders.

(Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions. Chapter V.—Offences committed at Sea. Chapter VI.—Execution of Commissions issued by Criminal Courts outside British India.)

- (d) the offences committed in British India to which the Act applies, are piracy, treason, and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

XLV of  
1860.

## CHAPTER V.

### OFFENCES COMMITTED AT SEA.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government<sup>1</sup> in this behalf may exercise the powers conferred by this Act.

Requisition  
for surrender  
in case of  
offence com-  
mitted at  
sea.

## CHAPTER VI.

### EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding :

Execution of  
commissions  
issued by  
Criminal  
Courts  
outside  
British  
India.

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

<sup>1</sup> For authorising the Chief Presidency Magistrate, Calcutta, see Cal. Gazette, 1925, Pt. I, p. 190.

## (Chapter VII.—Supplemental.)

## CHAPTER VII.

## SUPPLEMENTAL.

Power to  
make rules.

22. (1) The Governor General in Council may make rules<sup>1</sup> to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them ;

(b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies ;

(c) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere ; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

Detention of  
persons  
arrested un-  
der section  
54, clause  
seventhly,  
Act V, 1898.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898, any person arrested without an order from a Magistrate and v of 1898. without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within

<sup>1</sup> For rules, see Gazette of India, 1904, Pt. I, p. 364; Genl. R. and O.

(Chapter VII.—Supplemental. The First Schedule—Extradition Offences.)

the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

**24.** [*Repeals.*] *Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).*

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THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States).*]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

\* Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, <sup>1</sup>[444]).

Forgery, using forged documents, etc. (sections 463 to 477A).

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<sup>1</sup> These figures were substituted for the figures "446" by s. 2 and Sch. I of the Repealing and Amending Act, 1914 (10 of 1914).

(*The First Schedule—Extradition Offences: The Second Schedule.—Enactments repealed.*)

*Transfer of Property.*

[1904 : Act VI.]

<sup>1</sup>[Desertion from any unit of Indian State Forces declared by the Governor General in Council, by Notification in the Gazette of India, to be a unit desertion from which is an extradition offence.]

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States.

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[*THE SECOND SCHEDULE.—Enactments repealed.*] Repealed by the Repealing and Amending Act, 1914 (X of 1914).

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ACT No. VI OF 1904.<sup>2</sup>

[11th March, 1904.]

An Act further to amend the Transfer of Property Act, 1882.

**Short title.** WHEREAS it is expedient further to amend the Transfer of Property Act, 1882; It is hereby enacted as follows :—

IV of 1882.

1. This Act may be called the Transfer of Property (Amendment) Act, 1904.

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<sup>1</sup> These words were substituted by s. 2 of the Indian Extradition (Amendment) Act, 1922 (16 of 1922).

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 459; for Report of Select Committee, see *ibid*, 1904, Pt. V, p. 53, and for Proceedings in Council, see *ibid*, 1903, Pt. VI, p. 152; *ibid*, 1904, Pt. VI, pp. 2 & 72.

2. In the fourth paragraph of section 1 of the said Act, after the words “extend this Act” the words “or any part thereof” shall be inserted. Amendment of section 1, paragraph 4, Act IV of 1882.

3. In the second paragraph of section 59 of the said Act, for the words “an instrument” the words “a registered instrument” shall be substituted. Amendment of section 59, Act IV of 1882.

4. In the last paragraph of section 59 and in clause (c) of section 69 of the said Act, for the words “and Rangoon” and for the words “or Rangoon” the words “Rangoon, Moulmein, Bassein and Akyab” and the words “Rangoon, Moulmein, Bassein or Akyab” shall be respectively substituted. Amendment of last paragraph of section 59 and of section 69, Act IV of 1882.

5. For the second paragraph of section 107 of the said Act the following paragraph shall be substituted, namely :— Substitution of new paragraph for second paragraph of section 107, Act IV of 1882.

“All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession :

Provided that the Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, direct that leases of immoveable property, other than leases from year to year, or for any term exceeding one year, or reserving a yearly rent, or any class of such leases, may be made by unregistered instrument or by oral agreement without delivery of possession.”

6. In section 117 of the said Act, after the words “to be so applicable” the words “in the case of all or any of such leases” shall be inserted. Amendment of section 117, Act IV of 1882.

# THE ANCIENT MONUMENTS PRESERVATION ACT, 1904.

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 ACT No. VII OF 1904.<sup>1</sup>

[18th March, 1904.]

An Act to provide for the preservation of Ancient Monuments and objects of archæological, historical or artistic interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places, and for the protection and acquisition in certain cases of ancient monuments and of objects of archæological, historical or artistic interest; It is hereby enacted as follows :—

1. (1) This Act may be called the Ancient Monuments Preservation Act, 1904. Short title  
and extent.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 513; for Report of Select Committee, see *ibid*, 1904, Pt. V, page 57, and for Proceedings in Council, see *ibid*, 1903, Pt. VI, pp. 166, 191; *ibid*, 1904, Pt. VI, pp. 20 and 76.

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “ancient monument” means any structure, erection or monument, or any tumulus or place of internment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archæological or artistic interest, or any remains thereof, and includes—

(a) the site of an ancient monument ;

(b) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument ; and

(c) the means of access to and convenient inspection of an ancient monument :

(2) “antiquities” include any moveable objects which the Government, by reason of their historical or archæological associations, may think it necessary to protect against injury, removal or dispersion :

(3) “Commissioner” includes any officer authorized by the Local Government to perform the duties of a Commissioner under this Act :

(4) “maintain” and “maintenance” include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto :

(5) “land” includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such estate or tenure be subject to incumbrances or not : and

(6) “owner” includes a joint owner invested with powers of management on behalf of himself and other joint owners and any manager or trustee exercising powers of management over an ancient monument, and the successor in title of any such owner and the successor in office of any such manager or trustee :

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

**Protected monuments.**

3. (1) The Local Government may, by notification<sup>1</sup> in the local official Gazette, declare an ancient monument to be a protected monument within the meaning of this Act.

<sup>1</sup> For notification under this section, see Genl. R. & O. and different Local Rules and Orders.

*(Ancient Monuments.)*

(2) A copy of every notification published under sub-section (1) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objections to the issue of the notification received by the Local Government within one month from the date when it is so fixed up, will be taken into consideration.

(3) On the expiry of the said period of one month, the Local Government, after considering the objections, if any, shall confirm or withdraw the notification.

(4) A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.

*Ancient Monuments.*

4. (1) The Collector, with the sanction of the Local Government, may purchase or take a lease of any protected monument.

(2) The Collector, with the like sanction, may accept a gift or bequest of any protected monument.

(3) The owner of any protected monument may by written instrument constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the Local Government, accept such guardianship.

(4) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.

(5) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

(6) Where a protected monument is without an owner, the Commissioner may assume the guardianship of the monument.

5. (1) The Collector may, with the previous sanction of the Local Government, propose to the owner to enter into an agreement with the Secretary of State for India in Council for the preservation of any protected monument in his district.

Acquisition of rights in or guardianship of an ancient monument.

Preservation of ancient monument by agreement.

*(Ancient Monuments.)*

(2) An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement :—

- (a) the maintenance of the monument ;
- (b) the custody of the monument, and the duties of any person who may be employed to watch it ;
- (c) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument ;
- (d) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument ;
- (e) the notice to be given to the Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market-value ;
- (f) the payment of any expenses incurred by the owner or by the Government in connection with the preservation of the monument ;
- (g) the proprietary or other rights which are to vest in His Majesty in respect of the monument when any expenses are incurred by the Government in connection with the preservation of the monument ;
- (h) the appointment of an authority to decide any dispute arising out of the agreement ; and
- (i) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the Government.

(3) An agreement under this section may be executed by the Collector on behalf of the Secretary of State for India in Council, but shall not be so executed until it has been approved by the Local Government.

*(Ancient Monuments.)*

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the Local Government and with the consent of the owner.

(5) With the previous sanction of the Local Government, the Collector may terminate an agreement under this section on giving six months' notice in writing to the owner.

(6) The owner may terminate an agreement under this section on giving six months' notice to the Collector.

(7) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(8) Any rights acquired by Government in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

6. (1) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5. Owners under disability or not in possession.

(2) In the case of village-property, the headman or other village-officer exercising powers of management over such property may exercise the power conferred upon an owner by section 5.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the persons on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. (1) If the Collector apprehends that the owner or occupier of a monument intends to destroy, remove, alter, deface, or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 5, the Collector may make an order prohibiting any such contravention of the agreement. Enforcement of agreement.

(2) If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5 refuses to do any act which is in the opinion of the Collector necessary to such preservation or maintenance, or neglects to do any such act within such

*(Ancient Monuments.)*

reasonable time as may be fixed by the Collector, the Collector may authorize any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

(3) A person aggrieved by an order made under this section may appeal to the Commissioner, who may cancel or modify it and whose decision shall be final.

Purchasers  
at certain  
sales and  
persons  
claiming  
through  
owner bound  
by instru-  
ment execut-  
ed by owner.

8. Every person who purchases, at a sale for arrears of land-revenue or any other public demand, or at a sale made under the <sup>1</sup>Bengal Patni Taluks Regulation, 1819, an estate or tenure in which is situated a **VIII of 1819** monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

Application  
of endow-  
ment to re-  
pair of an  
ancient  
monument.

9. (1) If any owner or other person competent to enter into an agreement under section 5 for the preservation of a protected monument, refuses or fails to enter into such an agreement when proposed to him by the Collector, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Collector may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were the decree of a Civil Court.

Compulsory  
purchase of  
ancient  
monument.

10. (1) If the Local Government apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, the Local Government may proceed to acquire it under the provisions of the Land Acquisition Act, 1894, as if the preservation of a protected **I of 1894.** monument were a "public purpose" within the meaning of that Act.

(*Ancient Monuments.*)

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of—

- (a) any monument which or any part of which is periodically used for religious observances ; or
- (b) any monument which is the subject of a subsisting agreement executed under section 5.

(3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall not be exercised unless the owner or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Collector may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement.

11. (1) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10. Maintenance of certain protected monuments.

(2) When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agent, subordinates, and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

12. The Commissioner may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him : Voluntary contributions.

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

13. (1) A place of worship or shrine maintained by the Government under this Act shall not be used for any purpose inconsistent with its character. Protection of place of worship from misuse, pollution or desecration.

(2) Where the Collector has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift or bequest, or

## (Ancient Monuments.)

the Commissioner has, under the same section, accepted the guardianship thereof, and such monument, or any part thereof, is periodically used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument, or such part thereof, from pollution or desecration—

(a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(b) by taking such other action as he may think necessary in this behalf.

Relinquish-  
ment of  
Government  
rights in a  
monument.

14. With the sanction of the Local Government, the Commissioner may—

(a) where rights have been acquired by Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired; or

(b) relinquish any guardianship of a monument which he has accepted under this Act.

Right of  
access to  
certain pro-  
tected monu-  
ments.

15. (1) Subject to such rules as may after previous publication be made by the Local Government, the public shall have a right of access to any monument maintained by the Government under this Act.

(2) In making any rule under sub-section (1) the Local Government may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

Penalties.

16. Any person other than the owner who destroys, removes, injures, alters, defaces or imperils a protected monument, and any owner who destroys, removes, injures, alters, defaces or imperils a monument maintained by Government under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (1), shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to three months, or with both.

(*Traffic in Antiquities. Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.*)

*Traffic in Antiquities.*

17. (1) If the Governor General in Council apprehends that anti-  
quities are being sold or removed to the detriment of India or of any  
neighbouring country, he may, by notification<sup>1</sup> in the Gazette of India,  
prohibit or restrict the bringing or taking by sea or by land of any anti-  
quities or class of antiquities described in the notification into or out of  
British India or any specified part of British India.

Power to Governor General in Council to control traffic in antiquities.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of British India or any part of British India in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) An officer of Customs, or an officer of Police of a grade not lower than Sub-Inspector, duly empowered by the Local Government in this behalf, may search any vessel, cart or any other means of conveyance, and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (2) are contained therein.

(5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously or improperly exercised may address his complaint to the Local Government, and the Local Government shall pass such order and may award such compensation, if any, as appears to it to be just.

*Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.*

18. (1) If the Local Government considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the Government, the Local Government may, by notification<sup>2</sup> in the local

Power to Local Government to control moving of sculptures, carvings or like objects.

<sup>1</sup> See Notification No. 110, dated 28th May, 1917, Gazette of India 1917, Part I, p. 989, and notification No. 1385, dated 8th July 1924, Gazette of India, 1924, Pt. I, p. 641; Genl. R. & O., Vol. III.

<sup>2</sup> For notification by the Government of—

(1) Bengal, see Calcutta Gazette, 1908, Pt. I, p. 1248, and *ibid*, 1909, Pt. I, p. 23; and p. 957 as to Gaya Dist.

(2) Central Provinces, see C. P. Gazette, 1906, Pt. III, p. 616.

(3) Chief Commissioner, N.-W. F. P., see Gazette of India, 1909, Pt. II, p. 1554.

(4) Burma, see Burma Gazette, 1910, Pt. I, p. 596.

*(Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.)*

official Gazette, direct that any such object or any class of such objects shall not be moved unless with the written permission of the Collector.

(2) A person applying for the permission mentioned in sub-section (1) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Collector may require.

(3) If the Collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(4) Any person who moves any object in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves to the satisfaction of the Local Government that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (1), the Local Government shall either—

- (a) exempt such property from the said notification;
- (b) purchase such property, if it be moveable, at its market-value;
- or
- (c) pay compensation for any loss or damage sustained by the owner of such property, if it be immoveable.

**Purchase of  
sculptures,  
carvings or  
like objects  
by the Gov-  
ernment.**

19. (1) If the Local Government apprehends that any object mentioned in a notification issued under section 18, sub-section (1), is in danger of being destroyed, removed, injured or allowed to fall into decay, the Local Government may pass orders for the compulsory purchase of such object at its market-value, and the Collector shall thereupon give notice to the owner of the object to be purchased.

(2) The power of compulsory purchase given by this section shall not extend to—

- (a) any image or symbol actually used for the purpose of any religious observance; or
- (b) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

*(Excavations. General.)**Excavations.*

20. (1) If the Local Government is of opinion that excavation within the limits of any local area ought to be restricted or regulated for the purpose of protecting or preserving any ancient monument, the Local Government may, by notification<sup>1</sup> in the local official Gazette, make rules—

Power  
to Local  
Government  
to control  
excavation:

- (a) fixing the boundaries of the area to which the rules are to apply, and
- (b) prescribing the authority by which, and the terms on which, licenses to excavate may be granted.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any owner or occupier of land included in a notification under sub-section (1), proves to the satisfaction of the Local Government that he has sustained any loss by reason of such land being so included, the Local Government shall pay compensation in respect of such loss.

*General.*

21. (1) The market-value of any property which Government is empowered to purchase at such value under this Act, or the amount of compensation to be paid by Government in respect of anything done under this Act, shall, where any dispute arises touching the amount of such market-value or compensation, be ascertained in the manner provided by the Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 47, 51 and 52, so far as they can be made applicable :

Assessment  
of market-  
value or  
compensa-  
tion

I of 1894.

Provided that when making an inquiry under the said Land Acquisition Act, 1894, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Collector, and one a person nominated by the owner or, in case the owner fails to nominate

<sup>1</sup> For notification by the Government of—

- (1) Central Provinces, see C. P. Gazette, 1906, Pt. III, p. 617.
- (2) Madras, see Madras R. and O.
- (3) Bengal, see Calcutta Gazette, 1909, Pt. I, pp. 703 and 1642.
- (4) Burma, see Burma Gazette, 1909, Pt. I, p. 448.
- (5) Bihar and Orissa, see B. and O. Gazette, 1914, Pt. II, p. 733.

*(General.)*

an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

**Jurisdiction.**      **22.** A Magistrate of the third class shall not have jurisdiction to try any person charged with an offence against this Act.

**Power to make rules.**      **23.** (1) The Governor General in Council or the Local Government may make rules<sup>1</sup> for carrying out any of the purposes of this Act.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

**Protection to public servants acting under Act.**      **24.** No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.

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<sup>1</sup> For rules made by the Government of Madras for the decipherment, publication, and custody of Indian inscriptions on stone and copper, see Mad. R. and O.

## THE INDIAN UNIVERSITIES ACT, 1904.

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ACT No. VIII OF 1904.<sup>1</sup>

[24th March, 1904.]

**An Act to amend the law relating to the Universities of British India.**

WHEREAS by Acts II, XXII and XXVII of 1857, Act XIX of 1882 and Act XVIII of 1887, Universities were established and incorporated at Calcutta, Bombay, Madras, Lahore and Allahabad;

And whereas by Act XLVII of 1860 the Universities of Calcutta, Madras and Bombay were empowered to confer such degrees as should be appointed in the manner provided by the Act;

And whereas by Act I of 1884 the Universities of Calcutta, Madras and Bombay were further empowered to confer the honorary degree of Doctor in the Faculty of Law;

And whereas it is expedient to amend the law relating to the Universities of British India;

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Universities Act, 1904; and Short title  
and com-  
mencement.

(2) It shall come into force on such date<sup>2</sup> as the Government may Interpreta-  
tion. fix in this behalf by notification in the Gazette of India or the local official Gazette, as the case may be.

2. (1) This Act shall be deemed to be part of each of the 'Acts by which the said five Universities were respectively established and incorporated.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 523; for Report of Select Committee, see *ibid.*, 1904, Pt. V, p. 29, and for Proceedings in Council, see *ibid.*, 1903, Pt. VI, p. 178, *ibid.*, 1904, Pt. VI, pp. 4, 20, 81, 137, 162.

<sup>2</sup> For notification bringing the Act into force—

- (1) within the territorial limits of the Calcutta University on 1st September, 1904, see Gazette of India, 1904, Pt. I, p. 628;
- (2) in Coorg on 9th September, 1904, see Coorg District Gazette Extraordinary, 6th September, 1904;
- (3) within the territorial limits of the University of Madras on 9th September, 1904, see Fort St. George Gazette, 1904, Pt. IB, p. 616;
- (4) in the Bombay Presidency on 18th July, 1904, see Bombay Govt. Gazette, 1904, Pt. I, p. 906;
- (5) in the Punjab on 1st October, 1904, see Punjab Gazette, 1904, Pt. I, p. 706;
- (6) in the North-West Frontier Province on 1st October, 1904, see Gazette of India, 1904, Pt. II, p. 1095;
- (7) within the territorial limits of the Allahabad University on 1st October, 1904, see United Provinces Gazette, 1904, Pt. I, p. 647;
- (8) in British Baluchistan, on 1st October 1904, see Gazette of India, 1904, Pt. II, p. 1141.

*(The University.)*

(2) In this Act, unless there is anything repugnant in the subject or context,—

- (a) the term “College” or “affiliated College” includes any collegiate institution affiliated to or maintained by the University :
- (b) the expression “the Government” means 1\* \* \* \*  
the Local Government : and
- (c) the expressions “the University” and “the Act of Incorporation” and any expression denoting any University authority or officer or any statute, regulation, rule or by-law of the University shall be construed with reference to each of the said Universities respectively.

*The University.*

Incorporation and power of the University.

3. The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provision for the instruction of students, with power to appoint University Professors and Lecturers, to hold and manage educational endowments, to erect, equip and maintain University libraries, laboratories and museums, to make regulations relating to the residence and conduct of students, and to do all acts, consistent with the Act of Incorporation and this Act, which tend to the promotion of study and research.

Constitution and powers of the Senate.

4. (1) Notwithstanding anything contained in the Act of Incorporation, the Body Corporate of the University shall consist of—

- (a) the Chancellor ;
- (b) 2\* \* \* \* \*
- (c) the Vice-Chancellor ;
- (d) the *ex-officio* Fellows ; and
- (e) the Ordinary Fellows —
  - (i) elected by registered Graduates or by the Senate,
  - (ii) elected by the Faculties, and
  - (iii) nominated by the Chancellor.

<sup>1</sup> The words “in relation to the University of Calcutta, the Governor General in Council, and in relation to the other Universities” were repealed by s. 4 and Sch. of the Calcutta University Act, 1921 (Act 7 of 1921), Printed Suppt. to Ben. Code.

<sup>2</sup> The words “in the case of the University of Calcutta, the Rector ;” were repealed by s. 4 and Sch., *ibid.*

## (The University. Fellows.)

(2) The Ordinary Fellows shall, save as herein otherwise provided, hold office for five years :

Provided that an Ordinary Fellow who has vacated his office may, subject to the provisions of this Act, be elected or nominated to be an Ordinary Fellow.

(3) The Body Corporate shall be the Senate of the University, and all powers which are by the Act of Incorporation or by this Act conferred upon the Senate, or upon the Chancellor, Vice-Chancellor and Fellows in their corporate capacity, 1\* \* \* \* \* shall be vested in, and exercised by, the Senate constituted under this Act, and all duties and liabilities imposed upon the University by the Act of Incorporation shall be deemed to be imposed upon the Body Corporate as constituted under this Act.

(4) No act done by the University shall be deemed to be invalid merely by reason of any vacancy among either class of elected Ordinary Fellows, or by reason of the total number of Ordinary Fellows or of members of the profession of education to be included among Ordinary Fellows, being less than the minimum prescribed by this Act.

## Fellows.

5. (1) Notwithstanding anything contained in the Act of Incorporation, the persons for the time being performing the duties of the offices mentioned in the list contained in the first schedule to this Act or added to the said list under sub-section (2) shall be the *ex-officio* Fellows of the University. *Ex-officio  
Fellows.*

(2) The Government may, by notification published 2\* \* \* \* \* in the local official Gazette, 2\* \* \* \* \* make additions to, or alterations in, the list of offices contained in the said schedule :

Provided that the number of *ex-officio* Fellows shall not exceed ten.

1 The words "or, in the case of the University of Calcutta, upon the Chancellor, Rector, Vice-Chancellor and Fellows in their corporate capacity" were repealed by s. 4 and Sch. of the Calcutta University Act, 1921 (Act 7 of 1921), Printed Suppt. to Ben Code.

\* The words "in the Gazette of India or" and "as the case may be" were repealed by s. 4 and Sch., *ibid.*

## (Fellows.)

**Ordinary  
Fellows.**

6. (1) In the case of the Universities of Calcutta and Bombay, <sup>1\*</sup> the number of Ordinary Fellows shall not be less than fifty nor exceed one hundred; and of such number—

- (a) ten shall be elected by registered Graduates;
- (b) ten shall be elected by the Faculties; and
- (c) the remainder shall be nominated by the Chancellor.

(2) In the case of the University of the Punjab <sup>2</sup> \* \* \* the number of Ordinary Fellows shall not be less than forty nor exceed seventy-five; and of such number—

- (a) ten shall be elected by the Senate or by registered Graduates;
- (b) five shall be elected by the Faculties; and
- (c) the remainder shall be nominated by the Chancellor.

3[ \* \* \* \* \* ]

(3) The election of any Ordinary Fellow shall be subject to the approval of the Chancellor.

(4) Elections of Ordinary Fellows by the Faculties and nomination of such Fellows by the Chancellor under this section shall be made in such manner as to secure that not less than two-fifths of the Fellows so elected and so nominated respectively shall be persons following the profession of education.

**Ordinary  
Fellows  
elected by  
registered  
Graduates.**

7. (1) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by registered Graduates.

(2) The Syndicate shall maintain a register on which any Graduate who—

- (a) has taken the degree of Doctor or Master in any Faculty, or
- (b) has graduated in any Faculty not less than ten years before registration,

shall, subject to the payment of an initial fee of such amount as may be prescribed by the regulations, be entitled to have his name entered upon application made within the period of three years from the commencement of this Act or of one year from the date on which he becomes so entitled :

<sup>1</sup> The word "Madras" was repealed by Sch. II of the Madras University Act, 1923 (Mad. Act 7 of 1923).

<sup>2</sup> The words "and Allahabad" were repealed by s. 55 and Sch. II of the Allahabad University Act, 1921 (U. P. Act 3 of 1921).

<sup>3</sup> The proviso added by Act II of 1911 was repealed by *ibid.*

(Fellows.)

Provided that, if such application is made after the expiry of either of the said periods, the applicant shall be entitled to have his name entered on payment of the said initial fee, and of such further sum as may be prescribed by the regulations.

(3) The name of any Graduate entered on the register shall, subject to the payment of an annual fee of such amount as may be prescribed by the regulations, be retained thereon, and, in case of default, shall be removed therefrom, but shall, at any time, be re-entered upon payment of all arrears :

Provided that a Graduate whose name has been already entered on the register may at any time compound for all subsequent payments of the annual fee by paying the sum prescribed in this behalf by the regulations.

(4) No person other than a Graduate whose name is entered on the said register shall be qualified to vote or to be elected at an election held under sub-section (1).

(5) A Graduate registered under this section shall be entitled to such further privileges as may be determined by the regulations.

8. (1) The provisions of section 7 shall not apply to the University of the Punjab or to the University of Allahabad until the Chancellor, with the previous sanction of the Governor General in Council and by notification in the local official Gazette, so directs; and until such time the Ordinary Fellows of the said Universities, who would be elected by registered Graduates if the said provisions were in force, shall be elected by the Senate.

(2) In the case of the University of the Punjab and the University of Allahabad, there shall, if necessary, be an election, once in every year, on such date as the Chancellor may appoint in this behalf, to fill any vacancy among the Ordinary Fellows elected by the Senate.

9. (1) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by the Faculties.

(2) An election under sub-section (1) shall be held, subject to such directions prescribing the qualifications of the persons to be elected as may, from time to time, be given by the Chancellor, with a view to

*(Fellows. Transitory Provisions. Honorary Fellows. Faculties and Syndicate.)*

secure the return of duly qualified persons and the fair representation of different branches of study in the Senate.

Nomination  
by the  
Chancellor.

10. Subject to the provisions of section 6, the Chancellor may nominate any number of fit and proper persons to be Ordinary Fellows.

Vacating of  
office.

11. (1) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office.

(2) Where any Ordinary Fellow has not attended a meeting of the Senate other than a Convocation, during the period of one year, the Chancellor may declare his office to be vacated.

*Transitory Provisions.*

12. [*Election and nomination of Ordinary Fellows within one year after commencement of Act, and temporary continuance of existing University administration.*] *Repealed by the Repealing and Amending Act, 1914 (X of 1914).*

*Honorary Fellows.*

Honorary  
Fellows.

13. (1) (a) A Fellow holding office at the commencement of this Act shall cease to be a Fellow.

(b) Where a Fellow included in clause (a) does not become a Fellow under this Act, he shall be an Honorary Fellow for life.

(c) Where a Fellow included in clause (a) becomes a Fellow under this Act, he shall, whenever and so often as he ceases to be a Fellow under this Act, become an Honorary Fellow as provided in clause (b).

(2) The Chancellor may nominate any person to be an Honorary Fellow for life, who is eminent for his attainments in any branch of learning, or is an eminent benefactor of the University, or is distinguished for services rendered to the cause of education generally.

(3) Notwithstanding anything contained in this section, any Fellow who at the commencement of this Act is entitled as such to vote for the election of any person to be a member of any Council for the purpose of making laws and regulations or of any local authority shall continue to be so entitled as if this Act had not been passed.

*Faculties and Syndicate.*

Faculties.

14. (1) Nothing contained in the Act of Incorporation shall be deemed to prohibit the constitution of a new Faculty or the abolition or

*(Faculties and Syndicate.)*

reconstitution of any existing Faculty by the Senate under regulations made in accordance with the provisions of this Act.

(2) Regulations made under sub-section (1) may—

- (a) provide for the assignment of Fellows to the several Faculties by order of the Senate; and
- (b) empower the Fellows so assigned to add to their number, in such manner and for such period as may be prescribed, Graduates in the Faculty and other persons possessing special knowledge of the subjects of study represented by the Faculty :

Provided that the number of persons so to be added to the Faculty shall not exceed half the number of Fellows assigned to the Faculty.

(3) A person added to a Faculty under sub-section (2), clause (b), shall have the right to take part in the ordinary business of the Faculty, and in any election of an Ordinary Fellow by the Faculty, but shall not be entitled to take part in the election of the Syndicate.

15. (1) The executive government of the University shall be vested in the Syndicate, which shall consist of—

- (a) the Vice-Chancellor as Chairman;
- (b) the Director of Public Instruction for the Province in which the headquarters of the University are situated; and, in the case of the University of Allahabad, also the Director of Public Instruction in the Central Provinces; and
- (c) not less than seven or more than fifteen *ex-officio* or Ordinary Fellows elected by the Senate or by the Faculties in such manner as may be provided by the regulations, to hold office for such period as may be prescribed by the regulations.

(2) The regulations referred to in sub-section (1) shall be so framed as to secure that a number not falling short by more than one of a majority of the elected members of the Syndicate shall be Heads of, or Professors in, Colleges affiliated to the University.

(3) If in the case of any election the question is raised whether any person is or is not a Professor within the meaning of sub-section (2), the question shall be decided by the Senate.

*(Degrees. Affiliated Colleges.)**Degrees.*

Degrees,  
diplomas,  
licenses,  
titles and  
marks of  
honour.

Honorary  
degrees.

16. The Senate may institute and confer such degrees, and grant such diplomas, licenses, titles and marks of honour in respect of degrees and examinations as may be prescribed by regulation.

17. Where the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

Cancellation  
of degrees  
and the like.

18. Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, license, title or mark of honour conferred or granted by the Senate has been convicted of what is, in their opinion, a serious offence, the Syndicate may propose to the Senate that the degree, diploma, license, title or mark of honour be cancelled, and, if the proposal is accepted by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the degree, diploma, license, title or mark of honour shall be cancelled accordingly.

*Affiliated Colleges.*

Certificate  
required of  
candidates  
for examina-  
tion.

19. Save on the recommendation of the Syndicate, by special order of the Senate, and subject to any regulations made in this behalf, no person shall be admitted as a candidate at any University examination, other than an examination for matriculation, unless he produces a certificate from a College affiliated to the University, to the effect that he has completed the course of instruction prescribed by regulation.

Existing  
Colleges.

20. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn or restricted in the exercise of any power conferred by the Act of Incorporation or by this Act.

*(Affiliated Colleges.)*

21. (1) A College applying for affiliation to the University shall send <sup>Affiliation-</sup>  
a letter of application to the Registrar, and shall satisfy the Syndicate—

- (a) that the College is to be under the management of a regularly constituted governing body ;
- (b) that the qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College ;
- (c) that the buildings in which the College is to be located are suitable, and that provision will be made, in conformity with the regulations, for the residence, in the College or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students ;
- (d) that due provision has been or will be made for a library ;
- (e) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum ;
- (f) that due provision will, so far as circumstances may permit, be made for the residence of the Head of the College and some members of the teaching staff in or near the College or the place provided for the residence of students ;
- (g) that the financial resources of the College are such as to make due provision for its continued maintenance ;
- (h) that the affiliation of the College having regard to the provision made for students by other Colleges in the same neighbourhood, will not be injurious to the interests of education or discipline ; and
- (i) that the College rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing College in the same neighbourhood as would be injurious to the interests of education.

*(Affiliated Colleges.)*

The application shall further contain an assurance that after the College is affiliated any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(2) On receipt of a letter of application under sub-section (1), the Syndicate shall—

- (a) direct a local inquiry to be made by a competent person authorized by the Syndicate in this behalf;
- (b) make such further inquiry as may appear to them to be necessary; and
- (c) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (a) and (b).

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(3) The Registrar shall submit the application and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry as may appear to them to be necessary, shall grant or refuse the application or any part thereof.

(4) Where the application or any part thereof is granted, the order of the Government shall specify the courses of instruction in respect of which the College is affiliated; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(5) An application under sub-section (1) may be withdrawn at any time before an order is made under sub-section (3).

Extension  
of affiliations:

**22.** Where a College desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed by section 21 shall, so far as may be, be followed.

Inspection  
and reports:

**23.** (1) Every College affiliated to the University, whether before or after the commencement of this Act, shall furnish such reports, returns and other information as the Syndicate may require to enable it to judge of the efficiency of the College.

(2) The Syndicate shall cause every such College to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

*(Affiliated Colleges. Regulations.)*

(3) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in section 21, sub-section (1).

24. (1) A member of the Syndicate who intends to move that the rights conferred on any College by affiliation be withdrawn, in whole or in part, shall give notice of his motion, and shall state in writing the grounds on which the motion is made. <sup>Disaffilia-  
tion.</sup>

(2) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (1) to the Head of the College concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the College will be considered by the Syndicate :

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(3) On receipt of the representation or on expiration of the period referred to in sub-section (2), the Syndicate, after considering the notice of motion, statement and representation and after such inspection by any competent person authorized by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, shall make a report to the Senate.

(4) On receipt of the report under sub-section (3), the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(5) The Registrar shall submit the proposal and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry (if any) as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(6) Where by an order made under sub-section <sup>1</sup>[(5)] the rights conferred by affiliation are withdrawn, in whole or in part, the grounds for such withdrawal shall be stated in the order.

*Regulations.*

25. (7) The Senate, with the sanction of the Government, may from time to time make regulations consistent with the Act of Incorporation <sup>Regulations,</sup>

<sup>1</sup> This figure was substituted for the figure "(5)" by Sch. I of the Repealing and Amending Act, 1914 (10 of 1914).

## (Regulations.)

as amended by this Act and with this Act to provide for all matters relating to the University.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the procedure to be followed in holding any election of Ordinary Fellows ;
- (b) the constitution, reconstitution or abolition of Faculties, the proportion in which the members, other than the *ex-officio* members, of the Syndicate shall be elected to represent the various Faculties and the mode in which such election shall be conducted ;
- (c) the procedure at meetings of the Senate, Syndicate and Faculties and the quorum of members to be required for the transaction of business ;
- (d) the appointment of Fellows and others to be members of Boards of Studies, and the procedure of such Boards and the quorum of members to be required for the transaction of business ;
- (e) the appointment and duties of the Registrar and of officers and servants of the University, and of Professors and Lecturers appointed by the University ;
- (f) the appointment of Examiners, and the duties and powers of Examiners in relation to the examinations of the University ;
- (g) the form of the certificate to be produced by a candidate for examination under section 19 and the conditions on which any such certificate may be granted ;
- (h) the registers of graduates and students to be kept by the University, and the fee (if any) to be paid for the entry or retention of a name on any such register ;
- (i) the inspection of Colleges and the reports, returns and other information to be furnished by Colleges ;
- (j) the registers of students to be kept by Colleges affiliated to the University ;
- (k) the rules to be observed and enforced by Colleges affiliated to the University in respect of the transfer of students ;

*(Regulations.)*

- (l) the fees to be paid in respect of the courses of instruction given by Professors or Lecturers appointed by the University ;
- (m) the residence and conduct of students ;
- (n) the courses of study to be followed and the conditions to be complied with by candidates for any University examination, other than an examination for matriculation, and for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ;
- (o) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the matriculation examination and the conditions to be complied with by candidates for matriculation, whether sent up by recognised schools or not ;
- (p) the conditions to be complied with by candidates, not being students of any College affiliated to the University, for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ; and
- (q) the alteration or cancellation of any rule, regulation, statute or by-law of the University in force at the commencement of this Act.

26. (1) Within one year after the commencement of this Act, or within such further period as the Government may fix in this behalf,— New body of regulations.

- (a) the Senate as constituted under this Act shall cause a revised body of regulations to be prepared and submitted for the sanction of the Government ;
- (b) if any additions to, or alterations in, the draft submitted appear to the Government to be necessary, the Government, after consulting the Senate, may sanction the proposed body of regulations with such additions and alterations as appear to the Government to be necessary.

(2) Where a draft body of regulations is not submitted by the Senate within the period of one year after the commencement of this Act, or within such further period as may be fixed under sub-section (1), the Government may, within one year after the expiry of such period or of such further period, make regulations which shall have the same force as if they had been prepared and sanctioned under sub-section (1).

(Miscellaneous. The First Schedule.—Ex-officio Fellows of the University.)

*Miscellaneous.*

**Territorial  
exercise of  
powers.**

27. The Governor General in Council may, by general or special order,<sup>1</sup> define the territorial limits within which, and specify the Colleges in respect of which, any powers conferred by or under the Act of Incorporation or this Act shall be exercised.

28. [Rector.] Repealed by s. 4 and Sch., Act 7 of 1921.

29. [Repeals.] Repealed by Sch. II, Repealing and Amending Act, 1914 (10 of 1914).

## THE FIRST SCHEDULE.

### (Section 5.)

#### *Ex-officio* FELLOWS OF THE UNIVERSITY.

##### *The University of Calcutta.*

The Chief Justice of the High Court of Judicature at Fort William in Bengal.

The Lord Bishop of Calcutta.

2[The Member of the Council of the Governor General in charge of the Department of Education.

Three Ordinary Members of the Council of the Governor of Bengal.  
The Directors of Public Instruction in Bengal, Burma 3\* \*  
and Assam.]

##### *The University of Bombay.*

The Chief Justice of the High Court of Judicature at Bombay.

The Bishop of Bombay.

The Ordinary Members of the Council of the Governor of Bombay.

The Director of Public Instruction in Bombay.

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<sup>1</sup> For order defining the territorial limits of the five Universities, see Genl. R. and G. and Gazette of India, 1904, Pt. I, p. 627.

<sup>2</sup> These words were substituted by Notification No. 72-E. D., dated 27th December 1912, see Gazette of India, 1912, Pt. I, p. 1706.

<sup>3</sup> The words "Bihar and Orissa" were omitted by Notification No. 1047, dated 15th December 1917, see Gazette of India, 1917, Pt. I, p. 1966.

<sup>4</sup> The heading "The University of Madras" and the entries thereunder were repealed by Sch. II of the Madras University Act, 1923 (Mad. Act 7 of 1923).

(*The First Schedule.*—Ex-officio Fellows of the University. *The Second Schedule.*)

1904: Act XI.]

Tariff.

*The University of the Punjab.*

The Chief Judge of the Chief Court of the Punjab.

The Bishop of Lahore.

The Director of Public Instruction in the Punjab.

The representatives of such Chiefs (if any) of territories not comprised in British India as the Local Government may, by notification in the local official Gazette, specify in this behalf.

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## THE SECOND SCHEDULE.

(*Section 29.*)

[*Repealed by Sch II, Repealing and Amending Act, 1914 (10 of 1914).*]

## ACT No. XI OF 1904.<sup>2</sup>

[*25th March, 1904.*]

An Act to revive and continue section 8B of the Indian Tariff Act, 1894.

WHEREAS it is expedient to revive and continue the duration of **VIII of 1894.** section 8B of the Indian Tariff Act, 1894, which was added by section **VIII of 1902.** 2 of the Indian Tariff (Amendment) Act, 1902, but expired in virtue of sub-section (2) of section 1 of the latter Act, from the thirty-first day of August, 1903; It is hereby enacted as follows :—

1. Section 8B of the Indian Tariff Act, 1894, is hereby revived and continued in force with effect from the first day of April, 1904.

Revival of  
section 8B,  
Act VIII,  
1894.

2. [*Repeal of section 1 (2), Act VIII, 1902.*] *Repealed by Sch. II, Repealing and Amending Act, 1914 (10 of 1914).*

<sup>1</sup> The heading "The University of Allahabad" and the entries thereunder were repealed by s. 55 and Sch. II of the Allahabad University Act, 1921 (U. P. Act 3 of 1921).

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1904, Pt. V, p. 87, and for Proceedings in Council see *ibid*, Pt. VI, pp. 73 and 265.

ACT No. XV OF 1904.<sup>1</sup>

[28th October, 1904.]

## An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, II of 1899, 1899; It is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the Indian Stamp (Amendment) Act, 1904.

(2) It extends to the whole of British India, inclusive of 2\* \*  
British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

Amendment  
of section 2,  
Act II, 1899.

2. In section 2 of the Indian Stamp Act, 1899 (hereinafter referred to as "the said Act"),—

(a) after the definition of "lease" in clause (16) the following definition shall be inserted, namely:—

"(16A) 'marketable security' means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom;"  
and

(b) to the definition of "settlement" in clause (24) the following words shall be added, namely:—

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

Addition of  
new section  
23A, after  
section 23,  
Act II, 1899.  
Certain in-  
struments  
connected  
with mort-  
gages of  
marketable  
securities to  
be charge-  
able as  
agreements.

3. After section 23 of the said Act the following section shall be added, namely:—

"23A. (1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt,  
or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under <sup>3</sup>[Article No. 5 (c)] of Schedule I.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1904, Pt. V, p. 80; for Report of Select Committee, see *ibid*, Pt. V, p. 97, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 25, 373.

<sup>2</sup> The words "Upper Burma" were repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> Substituted by s. 3 of the Indian Stamp (Amendment) Act, 1912 (1 of 1912).

(2) A release or discharge of any such instrument shall only be chargeable with the like duty."

4. In section 26 of the said Act, for the first proviso the following Amendment of section 26, Act II, 1899.

" Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(a) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

5. In section 29, clause (2), of the said Act, for the words and figure " No. 6 (Agreement to Mortgage) " the words and figure " No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge) " shall be substituted. Amendment of section 29, Act II, 1899.

6. In section 40, sub-section (1), clause (b), of the said Act, before the words "ten times the amount" the words "an amount not exceeding" shall be inserted. Amendment of section 40 (1) (b), Act II, 1899.

7. In section 56, sub-section (1), of the said Act, after the word and figure " Chapter V " the following shall be inserted, namely:— Amendment of section 56 (1), Act II, 1899.

" and under clause (a) of the first proviso to section 26."

8. In Schedule I of the said Act the following amendments shall be made, namely:— Amendments of Schedule I, Act II, 1899.

(1) for Article No. 6 the following Article shall be substituted, namely:—

" 6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—

(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or

(2) the pawn or pledge of moveable property,

where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;

(b) if such loan or debt is repayable not more than three months from the date of such instrument.

The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.

Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.

*Exemption.*

Instrument of pawn or pledge of goods if unattested”;

(2) in the entry immediately following Article No. 28, for the words and figure “*See AGREEMENT by way of EQUITABLE MORTGAGE (No. 6)*” the words and figure “*See AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)*” shall be substituted;

(3) the entry “*EQUITABLE MORTGAGE*” following Article No. 30 shall be omitted;

(4) in Article No. 40—

(a) for the words and figures “*an AGREEMENT TO MORTGAGE (No. 6)*” the words and figure “*an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)*” shall be substituted,

(b) from clause (b) the words “*at the time of execution*” shall be omitted, and

(c) the exemption “(3) Instrument of pledge or pawn of goods if unattested” shall be omitted;

(5) in Article No. 41, for the entry “*Four annas*” each time it occurs in the second column opposite clause (b), the entry “*Two annas*” shall be substituted;

(6) after Article No. 46 the following entry shall be inserted, namely :—

“*PAWN OR PLEDGE.—See AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).*”; and

(7) in Article No. 55, after the word “*instrument*” the following parenthesis shall be inserted, namely :—

“*(not being such a release as is provided for by section 23A).*”

ACT No. IV OF 1905.<sup>1</sup>

[22nd March, 1905.]

## An Act to provide for investing the Railway Board with certain powers or functions under the Indian Railways Act, 1890.

WHEREAS a Railway Board has been constituted for controlling the administration of railways in India, and it is expedient to provide for investing such Board with certain powers or functions under the Indian Railways Act, 1890; It is hereby enacted as follows :—

IX of 1890.

1. (1) This Act may be called the Indian Railway Board Act, 1905; and

Short title  
and con-  
struction.

IX of 1890.

(2) It shall be read with, and taken as part of, the Indian Railways Act, 1890.

2. The Governor General in Council may, by notification in the Gazette of India, invest the Railway Board, either absolutely or subject to conditions,—

Investment  
of Railway  
Board with  
powers  
under Indian  
Railways  
Act, 1890.

IX of 1890.

(a) with all or any of the powers or functions of the Governor General in Council under the Indian Railways Act, 1890, with respect to all or any railways, and

(b) with the power of the officer referred to in section 47 of the said Act to make general rules for railways administered by the Government.

3. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction, to be given or signified on the part of the Railway Board, for any of the purposes of, or in relation to, any powers or functions with which it may be invested by notification under section 2, shall be sufficient and binding if in writing signed by the Secretary to the Railway Board, or by any other person authorized by the said Railway Board to act in its behalf in respect of the matters to which such authorization may relate; and the said Railway Board shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Mode of sig-  
nifying com-  
munication  
from the  
Railway  
Board.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1905, Pt. V, p. 16, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 36 and 44.

It has been extended to that portion of the Sind-Pishin section of the N.-W. Railway that lies beyond the Province of Sind, see Gazette of India, 1905, Pt. I, p. 692, and declared in force in the Sonthal Parganas by Notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1906, Pt. I, p. 354; B. and O. Code, Vol. I, p. 804; in British Baluchistan under s. 2 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), see Baluchistan Code.

<sup>2</sup> For notifications, see Genl. R. and O., Gazette of India, 1907, Pt. I, p. 273; *ibid.*, 1908, Pt. I, p. 169.

ACT No. VI OF 1905.<sup>1</sup>

[29th September, 1905.]

## An Act further to amend the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the Court-fees Act, VII of 1870, 1870; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Court-fees (Amendment) Act, 1905.

Amendment  
of section 7,  
Act VII,  
1870.

2. In section 7, sub-head xi, of the Court-fees Act, 1870—

VII of 1870.

(1) after clause (c), the following clause shall be inserted,  
namely :—

“(cc) for the recovery of immoveable property from a tenant,  
including a tenant holding over after the determination of a  
tenancy;” and

(2) for the word “land,” in both places in which it occurs, the  
words “immoveable property” shall be substituted.

## THE INDIAN COINAGE ACT, 1906.

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*Preliminary.*

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*Silver Coinage.*

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5. Standard weight and fineness.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1905, Pt. V, p. 25; for Report of Select Committee, see *ibid.*, Pt. V, pp. 35 and 36; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 39, 139, 147 and 149.

It has been declared in force in the Sonthal Parganas by Notification under a 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1906, Pt. I, p. 334, B. and O. Code, Vol. I, p. 804.

*Nickel Coinage.*

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6. Nickel coins.
7. Standard weight.

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**THE SCHEDULE.—Repealed.**

(Preliminary.)

ACT No. III OF 1906.<sup>1</sup>

[2nd March, 1906.]

An Act to consolidate and amend the law relating to Coinage and the Mint.

WHEREAS it is expedient to consolidate and amend the law relating to Coinage and the Mint; It is hereby enacted as follows :—

*Preliminary.*

Short title  
and extent.

1. (1) This Act may be called the Indian Coinage Act, 1906; and
- (2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) “deface”, with its grammatical variations and cognate expressions, includes clipping, filing, stamping, or such other alteration of the surface or shape of a coin as is readily distinguishable from the effects of reasonable wear;
- (b) “the Mint” includes the Mints now existing and any which may hereafter be established;
- (c) “prescribed” includes prescribed by a rule made under this Act;
- (d) “remedy” means variation from the standard weight and fineness; and
- (e) “standard weight” means the weight prescribed for any coin.

Power to  
establish  
and abolish  
Mints.

3. The Governor General in Council may, by notification in the Gazette of India,—

- (a) establish a Mint at any place at which a Mint does not for the time being exist; and
- (b) abolish any Mint, whether now existing or hereafter established.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1905, Part V, p. 32; for Report of Select Committee, see *ibid*, 1906, Part V, p. 9; and for Proceedings in Council, see *ibid*, 1905, Part VI, p. 142; *ibid*, 1906, Part VI, p. 28.

The Act has been declared in force in the Angul district by the Angul Laws Regulation, 1913 (3 of 1913), B. and O. Code, Vol. I, p. 885.

The Act has been declared in force in the Arakan Hill District by the Arakan Hill District Laws Regulation, 1916 (1 of 1916), Bur. Code, Vol. I.

## (Silver Coinage. Nickel Coinage.)

## Silver Coinage.

4. The following silver coins only shall be coined at the Mint for Silver coins, issue under the authority of the Governor General in Council, namely :—

(a) a rupee to be called the Government rupee;

(b) a half-rupee, \* \* \*1

(c) a quarter-rupee, \* \* \*1

2\* \* \* \*

5. (1) The standard weight of the Government rupee shall be one hundred and eighty grains Troy and its standard fineness shall be as follows, namely, eleven-twelfths, or one hundred and sixty-five grains of fine silver, and one-twelfth, or fifteen grains of alloy. Standard weight and fineness.

(2) The other silver coins shall be of proportionate weight and of the same fineness :

Provided that in the making of silver coins, a remedy shall be allowed of an amount not exceeding the following, namely :—

	Remedy in weight.	Remedy in fineness.
Rupee . . . . }	Five-thousandths . .	Two-thousandths.
Half-rupee . . . . }		
<sup>3</sup> [Quarter-rupee . . . . ]	Seven-thousandths . .	Three-thousandths.]

## Nickel Coinage.

46. The following nickel coins only shall be coined at the Mint for Nickel coins, issue under the authority of the Governor General in Council, namely :  
<sup>5</sup>[an eight-anna, a four-anna, a two-anna and a one-anna piece].

<sup>1</sup> The words "or eight-anna piece" and "or four-anna piece" in clauses (b) and (c), respectively were omitted by s. 2 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>2</sup> The words "and (d) an eighth of a rupee, or two-anna piece" were omitted by s. 2 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918).

<sup>3</sup> These items were substituted for the original items by s. 3, *ibid*.

<sup>4</sup> This section was substituted for the original section 6 by s. 4, *ibid*.

<sup>5</sup> These words were substituted for the words "a two-anna piece and a one-anna piece" by s. 3 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

(*Nickel Coinage. Bronze Coinage. Dimensions and Designs of Coins.*)

Standard  
weight.

7. The standard weight of the <sup>1</sup>[eight-anna, four-anna, two-anna, and one-anna pieces shall be one hundred and twenty, one hundred and five, ninety, and sixty grains Troy, respectively:]

Provided that, in the making of nickel coin, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

*Bronze Coinage.*

Bronze  
coins.

28. The following bronze coins only shall be coined at the Mint for issue under the authority of the Governor General in Council, namely:—

- (a) a pice, or quarter-anna;
- (b) a half-pice, or one-eighth of an anna; and
- (c) a pie, being one-third of a pice, or one-twelfth of an anna.

Standard  
weight and  
composition.

9. (1) The standard weight of the pice shall be seventy-five grains Troy, and the other bronze coins shall be of proportionate weight.

(2) Bronze coins shall be coined from a mixed metal consisting of copper, tin and zinc:

Provided that, in the making of bronze coins, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

*Dimensions and Designs of Coins.*

Power  
to direct  
coining,  
and to  
prescribe  
dimensions  
and designs.

10. (1) The Governor General in Council may, by notification<sup>3</sup> in the Gazette of India,—

- (a) direct the coining and issuing of all coins referred to in sections 4, 6 and 8, and
- (b) determine the dimensions of, and designs for, such coins.

(2) Until the Governor General in Council otherwise determines by notification under sub-section (1), the dimensions and designs of the silver coins coined under this Act shall be those prescribed for the like silver coins under the <sup>4</sup>Indian Coinage Act, 1870, at the time <sup>XXIII of 1870.</sup> of the commencement of this Act.

<sup>1</sup> These words were substituted by s. 4 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>2</sup> For legal tender of bronze coins coined outside British India, see the Bronze Coin (Legal Tender) Act, 1918 (22 of 1918).

<sup>3</sup> For Notifications issued under this section, see Gen. R. and O.

<sup>4</sup> Repealed by this Act.

## (Legal Tender.)

*Legal Tender.*

111. Gold coins, whether coined at His Majesty's Royal Mint or at any Mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received at any Government currency office and, at any time after the 30th day of September, 1927, at any Government Treasury other than a Sub-Treasury, at the bullion value of such coins calculated at the rate of 8·47512 grains Troy of fine gold per rupee.

Demonetiza-  
tion of  
sovereign  
and half-  
sovereign.

12. (1) The rupee and half-rupee shall be a legal tender in payment or on account:

Silver coin  
when a legal  
tender.

Provided that the coin—

(a) has not lost in weight so as to be more than two per cent. below standard weight, and

(b) has not been defaced.

(2) The quarter-rupee \* \* \*<sup>2</sup> shall be a legal tender in payment or on account for any sum not exceeding one rupee:

Provided that the coin—

(a) has not lost in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, and

(b) has not been defaced.

<sup>3</sup>13. 4[The eight-anna, four-anna, two-anna,] and one-anna nickel coins specified in section 6 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of <sup>5</sup>[two, four,] eight and sixteen for a rupee, respectively.

Nickel coin  
when a legal  
tender.

<sup>1</sup> This section was substituted for the original section 11 by s. 2 of the Currency Act, 1927 (4 of 1927).

<sup>2</sup> The words "and eighth of a rupee" were omitted by s. 6 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918).

<sup>3</sup> This section was substituted for the original section 13 by s. 7, *ibid.*

<sup>4</sup> These words were substituted for the words "The two-anna" by s. 5 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>5</sup> These words were inserted by s. 5, *ibid.*

## (Legal Tender.)

Bronze coin  
when a legal  
tender.

14. The bronze coins specified in section 8 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the following rates, respectively, namely :—

- (a) the pice at the rate of sixty-four for a rupee, or four for an anna ;
- (b) the half-pice at the rate of one hundred and twenty-eight for a rupee or eight for an anna ; and
- (c) the pie at the rate of one hundred and ninety-two for a rupee, or twelve for an anna.

Coin made  
under former  
Acts.

15. (1) (a) All silver coin of the weight and standard specified in Acts No. XVII of 1835,<sup>1</sup> No. XXI of 1838,<sup>2</sup> No. XIII of 1862<sup>1</sup> and the Indian Coinage Act, 1870,<sup>3</sup> and

XXIII of  
1870.

(b) all copper coin of the weight specified in Acts No. XXI of 1835,<sup>1</sup> No. XXII of 1844,<sup>2</sup> No. XIII of 1862<sup>1</sup> and the Indian Coinage Act, 1870,<sup>3</sup>

XXIII of  
1870.

which may have been issued since the passing of those Acts respectively, and declared by those Acts respectively to be a legal tender, shall, <sup>4</sup>[subject only to the provisions of section 15A and] in the case of silver coin to the provisos contained in section 12 of this Act in so far as such provisos apply to like coins under this Act, continue to be a legal tender for the amounts for which the like silver and bronze coins are a legal tender under this Act respectively.

(2) All double pice copper coins which may have been issued under the Acts specified in sub-section (1), clause (b), shall continue to be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of thirty-two for a rupee or two for an anna.

Power to  
call in coin.

<sup>5</sup>[15A. Notwithstanding anything contained in section 12, section 13, section 14 or section 15, the Governor General in Council may, by notification in the Gazette of India, call in, with effect from such date as may be specified in the notification, any coin, of whatever date or denomination, referred to in any of those sections other than the rupee and half-rupee referred to in sub-section (1) of section 12, and

<sup>1</sup> Repealed by the Indian Coinage Act, 1870.

<sup>2</sup> Repealed by Act 13 of 1862.

<sup>3</sup> Repealed by this Act.

<sup>4</sup> These words were substituted by s. 2 of the Indian Coinage (Amendment) Act, 1924 (10 of 1924).

<sup>5</sup> S. 15A was inserted by s. 3, *ibid.*

(*Legal Tender. Diminished, Defaced and Counterfeit Coins.*)

on and from the date so specified such coin shall cease to be a legal tender save at a Government currency office :

Provided that such coin shall continue to be a legal tender also at Government treasuries until the expiry of such further period, not being less than twelve months, as the Governor General in Council may fix by the notification.]

*Diminished, Defaced and Counterfeit \*1 Coins.*

16. Where any silver coin which has been coined and issued under the authority of the Governor General in Council is tendered to any person <sup>Power to certain persons to cut diminished or defaced silver coins.</sup> authorised by the Governor General in Council or by the Local Government to act under this section, and such person has reason to believe that the coin—

(a) has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, or

(b) has been defaced,

he shall, by himself or another, cut or break the coin.

17. A person cutting or breaking coin under the provisions of clause (a) of section 16 shall observe the following procedure, namely :— <sup>Procedure in regard to coin cut under section 16 (a).</sup>

(a) if the coin has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, but not more than such further percentage as may be prescribed in this behalf, he shall either return the pieces to the person tendering the coin, or, if such person so requests, shall receive and pay for the coin at such rates as may be prescribed in this behalf; and

(b) if the coin has been diminished in weight so as to be more than such further percentage below standard weight so prescribed as aforesaid, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking.

<sup>1</sup> The word "*Silver*" was omitted by s. 6 (1) of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>2</sup> For persons so authorised, see Gen. R. and O.

*(Diminished, Defaced and Counterfeit Coins. Supplemental Provisions.)*

Procedure in regard to coin cut under section 16 (b).

18. A person cutting or breaking coin under the provisions of clause (b) of section 16 shall observe the following procedure, namely :—

- (a) if such person has reason to believe that the coin has been fraudulently defaced, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking;
- (b) if such person has not reason to believe that the coin has been fraudulently defaced, he shall receive and pay for the coin at its nominal value.

*Explanation.*—For the purposes of this section a coin which there is reason to believe has been defaced by sweating shall be deemed to have been fraudulently defaced.

Procedure in regard to coin which is liable to be cut under both clause (a) and clause (b) of section 16.

19. If a coin is liable to be cut or broken under the provisions of both clause (a) and clause (b) of section 16, the person cutting or breaking the coin shall deal with it,—

- (a) if he has reason to believe that the coin has been fraudulently defaced, under clause (a) of section 18, and
- (b) in other cases, under section 17.

Power to certain persons to cut counterfeit silver or nickel coin and procedure in regard to coin so cut.

20. Where any silver <sup>1</sup>[or nickel] coin purporting to be coined or issued under the authority of the Governor General in Council is tendered to any person<sup>2</sup> authorised by the Governor General in Council or by the Local Government to act under this section, and such person has reason to believe that the coin is counterfeit, he shall by himself or another cut or break the coin, and may at his discretion either return the pieces to the tenderer, who shall bear the loss caused by such cutting or breaking, or <sup>1</sup>[in the case of silver coin] receive and pay for the coin according to the value of the silver bullion contained in it.

*Supplemental Provisions.*

Power to make rules.

21. (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) reduce the amount of remedy allowed by sections 5, 7 and 9 in the case of any coin;

<sup>1</sup> These words were inserted by s. 6 (2) of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>2</sup> For such authorised person, see Gen. R. and O.

*(Supplemental Provisions.)*

- (b) provide for the guidance of persons authorised to cut or break coin under sections 16 and 20;
- (c) determine the percentage of diminution in weight below standard weight not being less in any case than two per cent. which shall be the limit of reasonable wear;
- (d) prescribe the further percentage referred to in clause (a) of section 17, and the rates at which payments shall be made in the case of coins falling under the same clause; <sup>1\*</sup>

1\*                   \*                   \*                   \*                   \*

(3) Every such rule shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

**22.** No suit or other proceeding shall lie against any person in respect of anything in good faith done, or intended to be done, under or in pursuance of the provisions of this Act. Bar of suits.

**23.** Nothing in this Act shall be deemed to prohibit or restrict the making at the Mint of coins intended for issue as money by the Government of any territories beyond the limits of British India. Saving of making of other coins at Mints.

**24.** \*           \*           \*           \*<sup>2</sup> Copper coins of such descriptions as at the time of the commencement of this Act may be coined at the Mint for issue under the authority of the Governor General in Council may \*           \*           \*<sup>3</sup> continue to be so coined until such time as the Governor General in Council may by notification in the Gazette of India otherwise direct, and all copper coins so coined shall be a legal tender in payment or on account for the amounts for which bronze coins of corresponding nominal value are a legal tender under this Act. Saving of copper coins.

[THE SCHEDULE.]

*Repealed by Schedule II of Act 10 of 1914.*

<sup>1</sup> The word "and" and clause (e) were omitted by s. 2 of the Currency Act, 1927 (IV of 1927).

<sup>2</sup> The words "The Acts mentioned in the schedule are hereby repealed to the extent specified in the last column thereof" and the words "Provided that" were repealed by s. 3 and Schedule II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>3</sup> The words "notwithstanding the repeal of the said Acts" were repealed by s. 3 and Schedule II, *ibid.*

ACT No. IV OF 1906.<sup>1</sup>

[21st March, 1906.]

## An Act further to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient further to amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Presidency Small Cause Courts Act, 1906.

Amendment  
of section  
28, Act XV,  
1882.

2. In section 28 of the Presidency Small Cause Courts Act, 1882, XV of 1882, after the words "such decree" the words "and for the purpose of deciding all questions arising in the execution of such decree" shall be inserted.

Amendment  
of section 39  
of same Act.

3. In section 39 of the said Act, for sub-section (2) the following shall be substituted, namely :—

"(2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right :

Provided that the removal directed by such order shall, unless the Judge otherwise directs, be conditional upon the applicant giving security, to the approval of the Judge, within a reasonable time to be prescribed in the order, for the payment of the amount claimed and of the costs which may become payable by him to the plaintiff in respect of the said suit."

Substitution  
of new sec-  
tion for sec-  
tion 69 of  
same Act.

4. For section 69 of the said Act the following shall be substituted, namely :—

Reference  
when com-  
pulsory.

"69. (1) If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under Chapter VII of this Act, and differ in their opinion as to any question of law or usage having the force of law or the construction of a document, which construction may affect the merits, or

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1905, Pt. V, p. 46; for Report of Select Committee, see *ibid*, 1906, Pt. V, p. 17, and for Proceedings in Council, see *ibid*, 1905, Pt. VI, p. 156, and *ibid*, 1906, Pt. VI, p. 33.

if in any suit or any such proceeding, in which the amount or value of the subject-matter exceeds five hundred rupees, any such question arises upon which the Court entertains reasonable doubt, and either party so requires,

the Small Cause Court shall draw up a statement of the facts of the case and the point on which there is a difference of opinion or on which doubt is entertained, and refer such statement with its own opinion on the point for the opinion of the High Court; and the provisions of sections 619 to 621 of the <sup>1</sup>Code of Civil Procedure shall, so far as they are applicable, be deemed to apply as if such reference had been made under section 617 of the said Code.

XIV of 1882

(2) When the Small Cause Court refers any question for the opinion of the High Court as provided in sub-section (1), it shall either reserve judgment or give judgment contingent upon such opinion."

5. [*Amendment of second schedule, Act XV, 1877*].—*Rep. by the Indian Limitation Act, 1908 (IX of 1908).*

ACT No. V OF 1906.<sup>2</sup>

[31st March, 1906.]

### An Act further to amend the Indian Stamp Act, 1899.

II of 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899; It is hereby enacted as follows:—

1. This Act may be called the Indian Stamp (Amendment) Act, 1906.

II of 1899.

2. In section 2, clause (19), of the Indian Stamp Act, 1899 (hereinafter referred to as "the said Act"), sub-clause (c), and the word "and" prefixed thereto, are hereby repealed.

Repeal of part of section 2, Act II, 1899.

3. In section 11, clause (a), section 32, proviso, clause (c), section 35, proviso, clause (a), section 40, section 41, section 69 and section 74, of the said Act, after the words "one anna", wherever they occur, the words "or half an anna" shall be inserted.

Amendment of sections 11, 32, 35, 40, 41, 69 and 74, Act II, 1899.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Schedule I, Order XLVI.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1906, Pt. V, p. 6; for Report of Select Committee, see *ibid*, p. 21; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 3 and 33.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1907, Pt. I, p. 522; B. and O. Code, Vol. I, p. 804.

Substitution  
of new  
clause for  
clause (b)  
of section  
29, Act II,  
1899.

4. For section 29, clause (b), of the said Act, the following shall be substituted, namely :—

“(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance;

(bb) in the case of a policy of fire-insurance—by the person issuing the policy;”.

Addition to  
section 30,  
Act II, 1899.

5. To section 30 of the said Act the following paragraph shall be added, namely :—

“ Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.”

Amendment  
of section  
51, Act II,  
1899.

6. In section 51 of the said Act, after the word “ instruments ” the words “ by any banker or ”, and after the word “ said ” the word “ banker ” shall be inserted.

Amend-  
ments of  
Schedule I,  
Act II, 1899.

7. In Schedule I of the said Act, the following amendments shall be made, namely :—

(1) For clauses (b) and (c) of the exemptions from Article No. 24 the following shall be substituted, namely :—

“(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, deaths or burials.”

(2) In clause (b) of Article No. 41, for the words “ one year ” the words “ eighteen months ” shall be substituted.

(3) For divisions A and B of Article No. 47 the following shall be substituted, namely :—

	If drawn singly.	If drawn in duplicate, for each part.
“ A.—SEA-INSURANCE (see section 7)—		
(1) for or upon any voyage—		
(i) were the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy :	One anna . .	Half an anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy;	Two annas . .	One anna.

	If drawn singly.	If drawn in duplicate, for each part.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months;	Two annas . . .	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas . . .	Two annas.
<b>B.—FIRE INSURANCE—</b>		
(1) in respect of an original policy—		
(i) when the sum insured does not exceed Rs. 5,000;	Eight annas.	
(ii) in any other case . . . . .	One rupee.	
and		
(2) in respect of each receipt of any payment of a premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53."	

(4) To Article No. 53 the following note shall be added, namely :—

"See also POLICY OF INSURANCE [No. 47-B (2)]."

ACT No. VIII OF 1906.<sup>1</sup>

[31st August, 1906.]

## An Act to amend the Land Improvement Loans Act, 1883, and the Agriculturists' Loans Act, 1884.

**XIX of 1883.** WHEREAS it is expedient to amend the Land Improvement Loans  
**XII of 1884.** Act, 1883, and the Agriculturists' Loans Act, 1884; It is hereby enacted as follows :—

1. This Act may be called the Land Improvement and Agriculturists' **Short title.** Loans (Amendment) Act, 1906.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1906, Pt. V, p. 29, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 116 and 120.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1907, Pt. I, p. 522; B. and O. Code, Vol. I, p. 804.

2. [*Amendment of sections 1 and 4, Act XIX, 1883.*] Repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

3. [*Amendment of section 6 of same Act.*] Repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

Amendment  
of section 10.  
Act XIX,  
1883.

4. In section 10 of the said Act, for the words " with the previous sanction " the words " subject to the control " shall be substituted.

5. [*Amendment of section 11 of same Act.*] Repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

Amendment  
of section 4,  
Act XII,  
1884.

6. In section 4, sub-section (1), of the Agriculturists' Loans Act, <sup>XII of 1884.</sup> 1884, for the words " with the previous sanction " the words " subject to the control " shall be substituted.

#### ACT No. I of 1908.<sup>1</sup>

[3rd January, 1908.]

### An Act further to amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient further to amend the Legal Practitioners <sup>XVIII of 1879.</sup> Act, 1879; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Legal Practitioners (Amendment) Act, 1908.

2. [*Amendment of section 4 of Act XVIII of 1879.*] Repealed by Act 18 of 1919.

Addition to  
section 7 of  
Act XVIII  
of 1879.

3. To section 7 of the said Act the following shall be added, namely :—

"Provided that, on the admission as a Pleader of any person who has been previously entered as a Vakil or Attorney on the roll of a High Court established by Royal Charter, the High Court may in its discretion

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1907, Pt. V, p. 230, and for Proceedings in Council, see *ibid*, 1907, Pt. VI, p. 150, and *ibid*, 1908, Pt. VI, p. 2.

issue to such person a certificate authorising him to practise permanently in the Courts and in the offices specified therein, and a certificate so issued shall not require to be renewed under this section."

4. To section 25 of the said Act the following shall be added, Amendment of section 25 of Act XVIII of 1879.  
namely :—

"Provided also that no stamped paper shall be required in the case of a certificate whether original or renewed authorising, under section 7, a Vakil or Attorney on the roll of a High Court established by Royal Charter to practise as a Pleader."

5. In section 38 of the said Act, "7" shall be added after "5" and "25" after "16". Amendment of section 38 of Act XVIII of 1879.

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ACT No. III OF 1908.<sup>1</sup>

[17th January, 1908.]

An Act further to amend the law relating to Private Trusts and Trustees.

WHEREAS it is expedient further to amend the law relating to Private Trusts and Trustees; It is hereby enacted as follows :—

1. This Act may be called the Indian Trusts (Amendment) Act, Short title. 1908.

II of 1882. 2. For clause (d) of section 20 of the Indian Trusts Act, 1882, the following clause shall be substituted, namely :— Amendment of section 20, Act II of 1882.

2“(d) in debentures or other securities for money issued, under the authority of any Act of a Legislature established in British India, by or on behalf of any municipal body, port trust or city improvement trust in any Presidency-town or in Rangoon Town, or by or on behalf of the trustees of the port of Karachi;”.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1907, Pt. V, p. 225, and for Proceedings in Council, see *ibid*, 1907, Pt. VI, p. 146, and *ibid*, 1908, p. 8.

<sup>2</sup> This amended clause has been extended to the Presidency of Fort William in Bengal, see Calcutta Gazette, 1913, Pt. I, p. 360.

ACT No. IV OF 1908.<sup>1</sup>

[14th February, 1908.]

## An Act further to amend the Coroners Act, 1871, and the Prisoners Act, 1900.

WHEREAS it is expedient further to amend the <sup>2</sup>Coroners Act, 1871, <sup>IV of 1871.</sup> and the Prisoners Act, 1900 ; It is hereby enacted as follows :— <sup>III of 1900.</sup>

Short title.

1. This Act may be called the Coroners (Amendment) Act, 1908.

3\* \* \* \*

Amendment of section 11, Act III of 1900.

13. In section 11 of the Prisoners Act, 1900, for the words "Justice <sup>III of 1900.</sup> of the Peace or Coroner" the words "or Justice of the Peace" shall be substituted.

ACT No. VI OF 1908.<sup>4</sup>

[8th June, 1908.]

## An Act further to amend the law relating to explosive substances.

WHEREAS it is necessary further to amend the law relating to explosive substances ; It is hereby enacted as follows :—

Short title, extent and application.

1. (1) This Act may be called the Explosive Substances Act, 1908.

(2) It extends to the whole of British India and applies also to—

(a) all native Indian subjects of His Majesty in any place without and beyond British India ;

(b) all other British subjects within the territories of any native prince or chief in India.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1907, Pt. V, p. 2; for Report of Select Committee, see *ibid*, 1908, Pt. V, p. 31, and for Proceedings in Council, see *ibid*, 1907, Pt. VI, p. 6, and *ibid*, 1908, Pt. VI, pp. 8, 10 and 12.

<sup>2</sup> Ben. Code, Bom. Code.

<sup>3</sup> Sections 2 to 12 which amend the Coroners Act, 1871, are omitted, see Bom. Code, Vol. I.

<sup>4</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 170, and for Proceedings in Council, see *ibid*, 1908, Pt. VI, p. 128.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), see Calcutta Gazette, 1909, Pt. I, p. 649; B. & O. Code, Vol. I, p. 805; and in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, see B. & O. Code, Vol. I, p. 885.

2. In this Act the expression "explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement.

Definition of "explosive substance."

3. Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment for a term which may extend to ten years, to which fine may be added.

Punishment for causing explosion likely to endanger life or property.

4. Any person who unlawfully and maliciously—

(a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in British India of a nature likely to endanger life or to cause serious injury to property; or

Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.

(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or cause serious injury to property in British India, or to enable any other person by means thereof to endanger life or cause serious injury to property in British India;

shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished with transportation for a term which may extend to twenty years, to which fine may be added, or with imprisonment for a term which may extend to seven years, to which fine may be added.

5. Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable with transportation for a term which may extend to fourteen years, to which fine may be added, or with imprisonment for a term which may extend to five years, to which fine may be added.

Punishment for making or possessing explosives under suspicious circumstances.

*Limitation.*

[1908 : Act IX.]

Punishment  
of abettors.

6. Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

Restriction  
on trial of  
offences.

7. No Court shall proceed to the trial of any person for an offence against this Act except with the consent of the Local Government or the Governor General in Council.

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## THE INDIAN LIMITATION ACT, 1908.

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[7th August, 1908.]

## An Act to consolidate and amend the law for the Limitation of Suits, and for other purposes.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; and whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. (1) This Act may be called the Indian Limitation Act, 1908.

(2) It extends to the whole of British India; and

• (3) This section and section 31 shall come into force at once. The rest of this Act shall come into force on the first day of January, 1909.

Short title,  
extent and  
commence-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 22; for Report of Select Committee, see *ibid.*, 1908, Pt. V, p. 223, and for Proceedings in Council, see *ibid.*, 1908, Pt. VI, pp. 2, 13, 37 and 145.

This Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), see Baluchistan Code; in the Angul Sub-division by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, see B. & O. Code, Vol. I; in the Pargana of Manpur, with restrictions, under s. 2 of the Manpur Laws Regulation, 1926 (II of 1926); in the Arakan Hill District by Regn. 1 of 1916, s. 2, see Burma Code; in the Sonthal Parganas by Notification under Regulation III of 1872, see Cal. Gazette, 1909, Pt. I, p. 648; B. & O. Code, Vol. I.

(Part I.—Preliminary. Part II.—Limitation of Suits, Appeals and Applications.)

2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

(1) “applicant” includes any person from or through whom an applicant derives his right to apply :

(2) “bill of exchange” includes a hundi and a cheque :

(3) “bond” includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be :

(4) “defendant” includes any person from or through whom a defendant derives his liability to be sued :

(5) “easement” includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to or subsisting upon, the land of another :

(6) “foreign country” means any country other than British India :

(7) “good faith” : nothing shall be deemed to be done in good faith which is not done with due care and attention :

(8) “plaintiff” includes any person from or through whom a plaintiff derives his right to sue :

(9) “promissory note” means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight :

(10) “suit” does not include an appeal or an application : and

(11) “trustee” does not include a benamidar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title.

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## PART II.

### LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

3. Subject to the provisions contained in sections 4 to 25 (inclusive), Dismissal of every suit instituted, appeal preferred, and application made, after the suits, etc., instituted.

*(Part II.—Limitation of Suits, Appeals and Applications.)*

etc., after  
period of  
limitation.

period of limitation prescribed therefor by the first schedule shall be dismissed, although limitation has not been set up as a defence.

*Explanation.*—A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application for leave to sue as a pauper is made; and, in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Where Court  
is closed  
when period  
expires.

4. Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

Extension of  
period in  
certain  
cases.

5. Any appeal or application for a review of judgment or for leave to appeal or any other application to which this section may be made applicable <sup>1</sup>[by or under any enactment] for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

*Explanation.*—The fact that the appellant or applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

Legal  
disability.

26. (1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the first schedule.

(2) Where such person is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or where,

<sup>1</sup> These words were substituted for the words "by any enactment or rule" by s. 2 of the Indian Limitation (Amendment) Act, 1922 (10 of 1922).

<sup>2</sup> Sections 6 to 9 have been declared not to apply to suits, appeals or applications under the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), Ben. Code, Vol. III.

*(Part II.—Limitation of Suits, Appeals and Applications.)*

before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period, after both disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

(3) Where the disability continues up to the death of such person, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

(4) Where such representative is at the date of the death affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply. .

*Illustrations.*

- (a) The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accrues. He may institute his suit at any time within three years from the date of his attaining majority.
- (b) A right to sue accrues to Z during his minority. After the accrues, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity and minority cease.
- (c) A right to sue accrues to X during his minority. X dies before attaining majority, and is succeeded by Y, his minor son. Time runs against Y from the date of his attaining majority.

17. Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all: but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

Disability of one of several plaintiffs or applicants.

*Illustrations.*

- (a) A incurs a debt to a firm of which B, C and D are partners. B is insane, and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.
- (b) A incurs a debt to a firm of which E, F and G are partners. E and F are insane, and G is a minor. Time will not run against any of them until either E or F becomes sane, or G attains majority.

18. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than

Special exceptions.

<sup>1</sup> See foot-note 2 on p. 336 ante.

## (Part II.—Limitation of Suits, Appeals and Applications.)

three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

*Illustrations.*

- (a) A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under section 6 and this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.
- (b) A right to sue for an hereditary office accrues to A who at the time is insane. Six years after the accruer A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under section 6 read with this section.
- (c) A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accruer, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. Section 6 read with this section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

Continuous  
running of  
time.

19. Where once time has begun to run, no subsequent disability or inability to sue stops it :

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against  
express  
trustees and  
their repre-  
sentatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time.

Suits on  
foreign con-  
tracts.

11. (1) Suits instituted in British India on contracts entered into in a foreign country are subject to the rules of limitation contained in this Act.

(2) No foreign rule of limitation shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule.

<sup>1</sup> See foot-note 2 on p. 336 ante.

## (Part III.—Computation of Period of Limitation.)

## PART III.

## COMPUTATION OF PERIOD OF LIMITATION.

12. (1) In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded. Exclusion of time in legal proceedings.

(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.

(3) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

(4) In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

13. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India and from the territories beyond British India under the administration of the Government shall be excluded. Exclusion of time of defendant's absence from British India and certain other territories.

14. (1) In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant, shall be excluded, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it. Exclusion of time of proceeding *bonâ fide* in Court without jurisdiction.

(2) In computing the period of limitation prescribed for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good

*(Part III.—Computation of Period of Limitation.)*

faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

*Explanation I.*—In excluding the time during which a former suit or application was pending, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

*Explanation II.*—For the purposes of this section, a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.

*Explanation III.*—For the purposes of this section misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

Exclusion  
of time  
during  
which pro-  
ceedings are  
suspended.

15. (1) In computing the period of limitation prescribed for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(2) In computing the period of limitation prescribed for any suit of which notice has been given in accordance with the requirements of any enactment for the time being in force, the period of such notice shall be excluded.

Exclusion of  
time during  
which pro-  
ceedings to  
set aside  
execution-  
sale are  
pending.

16. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

Effect of  
death before  
right to sue  
accrues.

17. (1) Where a person, who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting or making such suit or application.

(2) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute or make such suit or application.

*(Part III.—Computation of Period of Limitation.)*

(3) Nothing in sub-sections (1) and (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immoveable property or of an hereditary office.

18. Where any person having a right to institute a suit or make an application has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded, <sup>Effect of fraud.</sup>

or where any document necessary to establish such right has been fraudulently concealed from him,

the time limited for instituting a suit or making an application—

(a) against the person guilty of the fraud or accessory thereto, or

(b) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

19. (1) Where, before the expiration of the period prescribed for a suit or application in respect of any property or right an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed. <sup>Effect of acknowledgment in writing.</sup>

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but, subject to the provisions of the Indian Evidence Act, 1872, oral evidence of its contents shall not be received.

*Explanation I.*—For the purposes of this section an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

*(Part III.—Computation of Period of Limitation.)*

*Explanation II.*—For the purposes of this section, “signed” means signed either personally or by an agent duly authorized in this behalf.

*Explanation III.*—For the purposes of this section an application for the execution of a decree or order is an application in respect of a right.

Effect of  
payment of  
interest as  
such or of  
part pay-  
ment of  
principal.

20. (1) Where interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorized in this behalf,

or where part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent duly authorized in this behalf,

a fresh period of limitation shall be computed from the time when the payment was made :

<sup>1</sup>[Provided that, save in the case of a payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.]

Effect of re-  
ceipt of pro-  
duce of  
mortgaged  
land.

(2) Where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment for the purpose of sub-section (1).

*Explanation.*—Debt includes money payable under a decree or order of Court.

Agent of  
person under  
disability.

21. (1) The expression “agent duly authorized in this behalf,” in sections 19 and 20, shall, in the case of a person under disability, include his lawful guardian, committee or manager, or an agent duly authorized by such guardian, committee or manager to sign the acknowledgment or make the payment.

Acknowledg-  
ment or  
payment by  
one of  
several joint  
contractors,  
etc.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed or of a payment made by, or by the agent of, any other or others of them.

<sup>2</sup>[(3) for the purposes of the said sections—

(a) an acknowledgment signed, or a payment made, in respect of any liability, by, or by the duly authorised agent of, any

<sup>1</sup> This proviso was substituted by s. 2 of the Indian Limitation (Amendment) Act, 1927 (1 of 1927).

<sup>2</sup> This sub-section was added by s. 3, *ibid.*

*(Part III.—Computation of Period of Limitation.)*

widow or other limited owner of property who is governed by the Hindu law, shall be a valid acknowledgment or payment, as the case may be, as against a reversioner succeeding to such liability; and

- (b) where a liability has been incurred by, or on behalf of, a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family.]

22. (1) Where after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party.

Effect of substituting or adding new plaintiff or defendant.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to an assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

23. In the case of a continuing breach of contract and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues.

Continuing breaches and wrong.

24. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

Suit for compensation for act not actionable without special damage.

*Illustrations.*

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation in the case of a suit by A against B runs from the time of the subsidence.

25. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments.

*Illustrations.*

- (a) A Hindu makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiration of four months after date computed according to the Gregorian calendar.
- (b) A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiration of one year after date computed according to the Gregorian calendar.

## (Part IV.—Acquisition of Ownership by Possession.)

## PART IV.

## ACQUISITION OF OWNERSHIP BY POSSESSION.

Acquisition  
of right to  
easements.

**26.** (1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years,

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(2) Where the property over which a right is claimed under sub-section (1) belongs to Government, that sub-section shall be read as if for the words "twenty years" the words "sixty years" were substituted.

*Explanation.*—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

*Illustrations.*

- (a) A suit is brought in 1911 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption from 1st January 1890 to 1st January 1910. The plaintiff is entitled to judgment.
- (b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff, on one occasion during the twenty years, had asked his leave to enjoy the right. The suit shall be dismissed.

Exclusion  
in favour of  
reversioner  
of servient  
tenement.

**27.** Where any land or water upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the

(Part IV.—Acquisition of Ownership by Possession. Part V.—  
Savings and Repeals.)

continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

*Illustrations*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a Hindu widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

28. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished. Extinguish-  
ment of  
right to pro-  
perty.

PART V.

SAVINGS AND REPEALS.

29. <sup>1</sup>[(1) Nothing in this Act shall affect section 25 of the Indian Savings-  
IX of 1872; Contract Act, 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this Act shall not apply.]

IV of 1909. <sup>2</sup>[(3)] Nothing in this Act shall apply to suits under the Indian Divorce Act.

<sup>1</sup> Sub-sections (1) and (2) were substituted for the original sub-section (1) by s. 3 of the Indian Limitation (Amendment) Act, 1922 (10 of 1922).

<sup>2</sup> The original sub-section (2) was re-numbered as (3) by s. 3, *ibid.*

## (Part V.—Savings and Repeals.)

<sup>1</sup>[(4)] Sections 26 and 27 and the definition of "easement" in section 2 shall not apply to cases arising in territories to which the <sup>2</sup>Indian Easements Act, 1882, may for the time being extend.

V of 1882.

Provision  
for suits for  
which the  
period pre-  
scribed is  
shorter than  
that pre-  
scribed by  
the Indian  
Limitation  
Act, 1877.

30. Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, may be instituted within the period of two years next after the passing of this Act, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first. **XV of 1877**

Provision  
for suits by  
certain  
mortgagees  
in territories  
mentioned  
in the  
second  
schedule.

31. (1) Notwithstanding anything contained in this Act or in the Indian Limitation Act, 1877, in the territories mentioned in the second schedule a suit for <sup>3</sup>foreclosure or a suit for sale by a mortgagee may be instituted within two years from the date of the passing of this Act, or within sixty years from the date when the money secured by the mortgage became due, whichever period expires first; and no such suit in the said territories instituted within the said period of sixty years and pending at the date of the passing of this Act, either in a Court of first instance or of appeal, shall be dismissed on the ground that a twelve years' rule of limitation is applicable. **XV of 1877**

(2) Where in the aforesaid territories the claim of a mortgagee for foreclosure or for sale has been wholly or in part dismissed or withdrawn after the twenty-second day of July 1907 and before the passing of this Act, either in a Court of first instance or of appeal on the ground that a twelve years' rule of limitation applied to such claim, the case may be restored on an application in writing to the Court by which the claim was dismissed or in which it was withdrawn, provided the application is made within six months from the date of the passing of this Act; and on such restoration, the provisions of sub-section (1) shall apply.

32. [Repeals.] Rep. by S. 3 and 2nd Sch. of the Second Rep. and Am. Act, 1914 (17 of 1914).

<sup>1</sup> Original sub-section (3) was re-numbered as (4) by s. 3 of the Indian Limitation (Amendment) Act, 1922 (10 of 1922).

<sup>2</sup> Mad. Code; Bom. Code; U. P. Code; C. P. Code; Coorg Code.

<sup>3</sup> As to period of limitation in the case of certain suits under the Dekkhan Agriculturists Relief Act, 1879 (17 of 1879) see Bom. Act 13 of 1912, Bom. Code, Vol. V.

(The First Schedule.—First Division: Suits.)

## THE FIRST SCHEDULE.

(See section 3.)

## FIRST DIVISION: SUITS.

	Description of suit.	Period of limitation.	Time from which period begins to run.
XXIII of 1863.	1.—To contest an award of the Board of Revenue under the Waste Lands (Claims) Act, 1863.	<i>Part I.—Thirty days.</i> Thirty days . . .	When notice of the award is delivered to the plaintiff.
	2.—For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in British India.	<i>Part II.—Ninety days.</i> Ninety days . . .	When the act or omission takes place.
I of 1877:	3.—Under the Specific Relief Act, 1877, section 9, to recover possession of immoveable property.	<i>Part III.—Six months.</i> Six months . . .	When the dispossession occurs.
XI of 1860:	4.—Under the Employers and Workmen (Disputes) Act, 1860, section 1.	<sup>1</sup> [Six months]. . .	When the wages, hire or price of work claimed accrue or accrues due.
	5.—Under the summary procedure referred to in section 128 (2) (f) of the Code of Civil Procedure, 1908 <sup>3</sup> [where the provision of such summary procedure does not exclude the ordinary procedure in such suits and under Order XXXVII of the said Code].	<sup>2</sup> <i>Part IV.—One year.</i> <sup>4</sup> [One year] . . .	When the debt or liquidated demand becomes payable or when the property becomes recoverable.
V of 1908.		* * *	
	6.—Upon a Statute, Act, Regulation or Bye-law, for a penalty or forfeiture.	One year . . .	When the penalty or forfeiture is incurred.
	7.—For the wages of a household servant, artisan or labourer not provided for by this schedule, article 4.	<sup>1</sup> [One year] . . .	When the wages accrue due.
	8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house.	<sup>1</sup> [One year] . . .	When the food or drink is delivered.

<sup>1</sup> This entry was substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

<sup>2</sup> This heading was inserted by s. 2 of the Indian Limitation (Amendment) Act, 1925 (30 of 1925).

<sup>3</sup> These words were added by s. 2, *ibid.*

<sup>4</sup> This entry was substituted by s. 2, *ibid.*

<sup>5</sup> The heading "*Part IV—One year*" was omitted by s. 2, *ibid.*

(The First Schedule.—First Division: Suits.)

## THE FIRST SCHEDULE—contd.

## FIRST DIVISION: SUITS—contd.

Description of suit.	Period of limitation.	Time from which period begins to run.
9.—For the price of lodging .	<i>Part IV.—One year—contd.</i> ½[One year] .	When the price becomes payable.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	½[One year] .	When the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered.
11.—By a person, against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order:	½[One year] .	The date of the order.
(1) Order under the Code of Civil Procedure, 1908, on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree; (2) Order under section 28 of the Presidency Small Cause Courts Act, 1882.		V of 1908,
11A.—By a person against whom an order has been made under the Code of Civil Procedure, 1908, upon an application by the holder of a decree for the possession of immoveable property or by the purchaser of such property sold in execution of a decree, complaining of resistance or obstruction to the delivery of possession thereof, or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order.	½[One year] .	Ditto.

XV of 1882.

<sup>1</sup> Substituted for the word "Ditto" by s. 2 and Sch. I of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part IV.—One year—contd.</i>	
<p>12.—To set aside any of the following sales:—</p> <p>(a) sale in execution of a decree of a Civil Court;</p> <p>(b) sale in pursuance of a decree or order of a Collector or other officer of revenue;</p> <p>(c) sale for arrears of Government revenue, or for any demand recoverable as such arrears;</p> <p>(d) sale of a patni taluq sold for current arrears of rent.</p> <p><i>Explanation.</i>—In this article "patni" includes any intermediate tenure saleable for current arrears of rent.</p>	<p><sup>1</sup> [One year]</p>	<p>When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.</p>
<p>13.—To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit.</p>	<p><sup>1</sup>[One year]</p>	<p>The date of the final decision or order in the case by a Court competent to determine it finally.</p>
<p>14.—To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for.</p>	<p><sup>1</sup>[One year]</p>	<p>The date of the act or order.</p>
<p>15.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue-authorities for arrears of Government revenue.</p>	<p><sup>1</sup>[One year]</p>	<p>When the attachment, lease or transfer is made.</p>
<p>16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue-authorities on account of arrears of revenue or on account of demands recoverable as such arrears.</p>	<p><sup>1</sup>[One year]</p>	<p>When the payment is made.</p>

<sup>1</sup> See footnote 1 on prepage.

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part IV.—One year—contd.</i>		
17.—Against Government for compensation for land acquired for public purposes.	One year . .	The date of determining the amount of the compensation.
18.—Like suit for compensation when the acquisition is not completed.	<sup>1</sup> [One year]	The date of the refusal to complete.
19.—For compensation for false imprisonment.	<sup>1</sup> [One year]	When the imprisonment ends.
20.—By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855.	<sup>1</sup> [One year]	The date of the death of the person wronged.
21.—By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855.	<sup>1</sup> [One year]	The date of the death of the person killed.
22.—For compensation for any other injury to the person.	<sup>1</sup> [One year]	When the injury is committed.
23.—For compensation for a malicious prosecution.	<sup>1</sup> [One year]	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
24.—For compensation for libel .	<sup>1</sup> [One year]	When the libel is published.
25.—For compensation for slander	<sup>1</sup> [One year]	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results.
26.—For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	<sup>1</sup> [One year]	When the loss occurs.
27.—For compensation for inducing a person to break a contract with the plaintiff.	<sup>1</sup> [One year]	The date of the breach.
28.—For compensation for an illegal, irregular or excessive distress.	<sup>1</sup> [One year]	The date of the distress.

XII of 1855;

XIII of 1855.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part IV.—One year—concl.</i>	
29.—For compensation for wrongful seizure of moveable property under legal process.	<sup>1</sup> [One year]	The date of the seizure.
30.—Against a carrier for compensation for losing or injuring goods.	<sup>1</sup> [One year]	When the loss or injury occurs.
31.—Against a carrier for compensation for non-delivery of, or delay in delivering, goods.	<sup>1</sup> [One year]	When the goods ought to be delivered.
	<i>Part V.—Two years.</i>	
32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Two years	When the perversion first becomes known to the person injured thereby.
33.—Under the Legal Representatives' Suits Act, 1855. against an executor.	<sup>1</sup> [Two years]	When the wrong complained of is done.
34.—Under the same Act against an administrator.	<sup>1</sup> [Two years]	Ditto.
35.—Under the same Act against any other representative.	<sup>1</sup> [Two years]	Ditto.
36.—For compensation for any malfeasance, misfeasance or nonfeasance independent of contract and not herein specially provided for.	<sup>1</sup> [Two years]	When the malfeasance, misfeasance or nonfeasance takes place.
	<i>Part VI.—Three years.</i>	
37.—For compensation for obstructing a way or a watercourse.	Three years	The date of the obstruction.
38.—For compensation for diverting a watercourse.	<sup>1</sup> [Three years]	The date of the diversion.
39.—For compensation for trespass upon immoveable property.	<sup>1</sup> [Three years]	The date of the trespass.

<sup>1</sup> Substituted by s 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
40.—For compensation for infringing copyright or any other exclusive privilege.	<sup>1</sup> [Three years]	The date of the infringement.
41.—To restrain waste	<sup>1</sup> [Three years]	When the waste begins.
42.—For compensation for injury caused by an injunction wrongfully obtained.	<sup>1</sup> [Three years]	When the injunction ceases.
43.—Under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	<sup>1</sup> [Three years]	The date of the payment or distribution. X of 1865. V of 1881.
44.—By a ward who has attained majority, to set aside a transfer of property by his guardian.	<sup>1</sup> [Three years]	When the ward attains majority.
45.—To contest an award under any of the following Regulations of the Bengal Code:—  The Bengal <sup>2</sup> Land-revenue Settlement Regulation, 1822.  The Bengal <sup>2</sup> Land-revenue Settlement Regulation, 1825.  The Bengal <sup>2</sup> Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	<sup>1</sup> [Three years]	The date of the final award or order in the case.  VII of 1822.  IX of 1825.  IX of 1833.
46.—By a party bound by such award to recover any property comprised therein.	<sup>1</sup> [Three years]	The date of the final award or order in the case.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).<sup>2</sup> Bengal Code.

(The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation	Time from which period begins to run.
V of 1898. Bom. II of 1906.	<i>Part VI.—Three years—contd.</i> <sup>2</sup> [Three years]	The date of the final order in the case.
	47.—By any person bound by an order respecting the possession of immoveable property made under the Code of Criminal Procedure, 1898, or the 'Mamlatdars' Courts Act, 1906, or by any one claiming under such person, to recover the property comprised in such order.	
	48.—For specific moveable property lost or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	<sup>2</sup> [Three years] . When the person having the right to the possession of the property first learns in whose possession it is.
	49.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.	<sup>2</sup> [Three years] . When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
	50.—For the hire of animals, vehicles, boats or household furniture.	<sup>2</sup> [Three years] . When the hire becomes payable.
	51.—For the balance of money advanced in payment of goods to be delivered.	<sup>2</sup> [Three years] . When the goods ought to be delivered.
	<sup>2</sup> 52.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	<sup>2</sup> [Three years] . The date of the delivery of the goods.
	<sup>2</sup> 53.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	<sup>2</sup> [Three years] . When the period of credit expires.
	54.—For the price of goods sold and delivered to be paid for by a bill of exchange no such bill being given.	<sup>2</sup> [Three years] . When the period of the proposed bill elapses.

<sup>1</sup> Bom. Code.<sup>2</sup> See foot-note 1, prepage.<sup>3</sup> For period of limitation for these and certain other suits in the province of the Punjab, see the Punjab Loans Limitation Act, 1904 (Punj. Act 1 of 1904), and s. 29 (1) (b) of this Act.

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
55.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	<sup>1</sup> [Three years] .	The date of the sale.
56.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	<sup>1</sup> [Three years] .	When the work is done.
<sup>2</sup> 57.—For money payable for money lent.	<sup>1</sup> [Three years] .	When the loan is made.
58.—Like suit when the lender has given a cheque for the money.	<sup>1</sup> [Three years] .	When the cheque is paid.
<sup>2</sup> 59.—For money lent under an agreement that it shall be payable on demand.	<sup>1</sup> [Three years] .	When the loan is made.
60.—For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable.	<sup>1</sup> [Three years] .	When the demand is made.
<sup>2</sup> 61.—For money payable to the plaintiff for money paid for the defendant.	<sup>1</sup> [Three years] .	When the money is paid.
62.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	<sup>1</sup> [Three years] .	When the money is received.
<sup>2</sup> 63.—For money payable for interest upon money due from the defendant to the plaintiff.	<sup>1</sup> [Three years] .	When the interest becomes due.
<sup>2</sup> 64.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	<sup>1</sup> [Three years] .	When the accounts are stated in writing signed by the defendant or his agent duly authorized in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).<sup>2</sup> See foot-note under art. 52, *supra*.

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
165.—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	<sup>2</sup> [Three years] .	When the time specified arrives or the contingency happens.
166.—On a single bond, where a day is specified for payment.	<sup>2</sup> [Three years] .	The day so specified.
167.—On a single bond, where no such day is specified.	<sup>2</sup> [Three years] .	The date of executing the bond.
168.—On a bond subject to a condition.	<sup>2</sup> [Three years] .	When the condition is broken.
169.—On a bill of exchange or promissory note payable at a fixed time after date.	<sup>2</sup> [Three years] .	When the bill or note falls due.
170.—On a bill of exchange payable at sight or after sight, but not at a fixed time.	<sup>2</sup> [Three years] .	When the bill is presented.
171.—On a bill of exchange accepted payable at a particular place.	<sup>2</sup> [Three years] .	When the bill is presented at that place.
172.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	<sup>2</sup> [Three years] .	When the fixed time expires.
173.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	<sup>2</sup> [Three years] .	The date of the bill or note.
174.—On a promissory note or bond payable by instalments.	<sup>2</sup> [Three years] .	The expiration of the first term of payment as to the part then payable; and for the other parts the expiration of the respective terms of payment.
175.—On a promissory note or bond payable by instalments, which provides that if default be made in payment of one or more instalments, the whole shall be due.	<sup>2</sup> [Three years] .	When the default is made, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver.

<sup>1</sup> See foot-note under art. 52, *supra*.<sup>2</sup> See foot-note 1, prepage.

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part VI.—Three years—contd.</i>		
176.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	1[Three years] .	The date of the delivery to the payee.
177.—On a dishonoured foreign bill where protest has been made and notice given.	1[Three years] .	When the notice is given.
178.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	1[Three years] .	The date of the refusal to accept.
179.—By the acceptor of an accommodation-bill against the drawer.	1[Three years] .	When the acceptor pays the amount of the bill.
180.—Suit on a bill of exchange, promissory note or bond not herein expressly provided for.	1[Three years] .	When the bill, note or bond becomes payable.
81.—By a surety against the principal debtor.	1[Three years] .	When the surety pays the creditor.
82.—By a surety against a co-surety.	1[Three years] .	When the surety pays anything in excess of his own share.
83.—Upon any other contract to indemnify.	1[Three years] .	When the plaintiff is actually damnified.
84.—By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	1[Three years] .	The date of the termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
85.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	1[Three years] .	The close of the year in which the last item admitted or proved is entered in the account; such year to be computed as in the account.

1 See foot-note under art. 52, *supra*.

2 Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
86.—On a policy of insurance, when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	<sup>1</sup> [Three years] .	When proof of the death or loss is given or received to or by the insurer, whether by or from the plaintiff, or any other person.
87.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	<sup>1</sup> [Three years] .	When the insurers elect to avoid the policy.
88.—Against a factor for an account.	<sup>1</sup> [Three years] .	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
89.—By a principal against his agent for moveable property received by the latter and not accounted for.	<sup>1</sup> [Three years] .	Ditto.
90.—Other suits by principals against agents for neglect or misconduct.	<sup>1</sup> [Three years] .	When the neglect or misconduct becomes known to the plaintiff.
91.—To cancel or set aside an instrument not otherwise provided for.	<sup>1</sup> [Three years] .	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
92.—To declare the forgery of an instrument issued or registered.	<sup>1</sup> [Three years] .	When the issue or registration becomes known to the plaintiff.
93.—To declare the forgery of an instrument attempted to be enforced against the plaintiff.	<sup>1</sup> [Three years] .	The date of the attempt.
94.—For property which the plaintiff has conveyed while insane.	<sup>1</sup> [Three years] .	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
95.—To set aside a decree obtained by fraud, or for other relief on the ground of fraud.	<sup>1</sup> [Three years] .	When the fraud becomes known to the party wronged.
96.—For relief on the ground of mistake.	<sup>1</sup> [Three years] .	When the mistake becomes known to the plaintiff.

<sup>1</sup> See foot-note 2, prepage.

(The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
97.—For money paid upon an existing consideration which afterwards fails.	<i>Part VI.—Three years—contd.</i> 1[Three years] .	The date of the failure.
98.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	1[Three years] .	The date of the trustee's death, or, if the loss has not then resulted, the date of the loss.
99.—For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers.	1[Three years] .	The date of the payment in excess of the plaintiff's own share.
100.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	1[Three years] .	When the right to contribution accrues.
101.—For a seaman's wages .	1[Three years] .	The end of the voyage during which the wages are earned.
102.—For wages not otherwise expressly provided for by this schedule.	1[Three years] .	When the wages accrue due.
103.—By a Muhammadan for exigible dower ( <i>mu'ajjal</i> ).	1[Three years] .	When the dower is demanded and refused or (where, during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
104.—By a Muhammadan for deferred dower ( <i>mu'rajjal</i> ).	1[Three years] .	When the marriage is dissolved by death or divorce.
105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	1[Three years] .	When the mortgagor re-enters on the mortgaged property.
106.—For an account and a share of the profits of a dissolved partnership.	1[Three years] .	The date of dissolution.

1 Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—concl'd.</i>	
107.—By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate.	1[Three years] .	The date of the payment.
108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	1[Three years] .	When the trees are cut down.
109.—For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	1[Three years] .	When the profits are received.
110.—For arrears of rent . . .	1[Three years] .	When the arrears become due.
111.—By a vendor of immovable property for personal payment of unpaid purchase-money.	1[Three years] .	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
112.—For a call by a company registered under any Statute or Act.	1[Three years] .	When the call is payable.
113.—For specific performance of a contract.	1[Three years] .	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
114.—For the rescission of a contract.	1[Three years] .	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
115.—For compensation for the breach of any contract, express or implied, not in writing registered and not herein specially provided for.	1[Three years] .	When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (where the breach is continuing) when it ceases.

1 Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VII.—Six years.</i>	
116.—For compensation for the breach of a contract in writing registered.	Six years . .	When the period of limitation would begin to run against a suit brought on a similar contract not registered.
117.—Upon a foreign judgment as defined in the Code of Civil Procedure, 1908.	<sup>1</sup> [Six years] .	The date of the judgment.
118.—To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	<sup>1</sup> [Six years] .	When the alleged adoption becomes known to the plaintiff.
119.—To obtain a declaration that an adoption is valid.	<sup>1</sup> [Six years] .	When the rights of the adopted son, as such, are interfered with.
120.—Suit for which no period of limitation is provided elsewhere in this schedule.	<sup>1</sup> [Six years] .	When the right to sue accrues.
	<i>Part VIII.—Twelve years.</i>	
121.—To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, or in a patni taluk or other saleable tenure sold for arrears of rent.	Twelve years . .	When the sale becomes final and conclusive.
122.—Upon a judgment obtained in British India, or a recognisance.	<sup>1</sup> [Twelve years].	The date of the judgment or recognisance.
123.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate.	<sup>1</sup> [Twelve years].	When the legacy or share becomes payable or deliverable.
124.—For possession of an hereditary office.	<sup>1</sup> [Twelve years].	When the defendant takes possession of the office adversely to the plaintiff.
		<i>Explanation.</i> —An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.

V of 1908.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<p>125.—Suit during the life of a Hindu or Muhammadan female by a Hindu or Muhammadan who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage.</p> <p>126.—By a Hindu governed by the law of the Mitakshara to set aside his father's alienation of ancestral property.</p> <p>127.—By a person excluded from joint family property to enforce a right to share therein.</p> <p>128.—By a Hindu for arrears of maintenance.</p> <p>129.—By a Hindu for a declaration of his right to maintenance.</p> <p>130.—For the resumption or assessment of rent-free land.</p> <p>131.—To establish a periodically recurring right.</p> <p>132.—To enforce payment of money charged upon immoveable property.</p> <p><sup>1</sup>[<i>Explanation</i>.—For the purposes of this article—</p> <p>(a) the allowance and fees respectively called <i>malikana</i> and <i>hagqs</i>, and</p>	<p><i>Part VIII.—</i> <i>Twelve years—</i> <i>contd.</i></p> <p><sup>1</sup>[Twelve years] .</p>	<p>The date of the alienation.</p>
	<sup>1</sup> [Twelve years] .	<p>When the alienee takes possession of the property.</p>
	<sup>1</sup> [Twelve years] .	<p>When the exclusion becomes known to the plaintiff.</p>
	<sup>1</sup> [Twelve years] .	<p>When the arrears are payable.</p>
	<sup>1</sup> [Twelve years] .	<p>When the right is denied.</p>
	<sup>1</sup> [Twelve years] .	<p>When the right to resume or assess the land first accrues.</p>
	<sup>1</sup> [Twelve years] .	<p>When the plaintiff is first refused the enjoyment of the right.</p>
	<sup>1</sup> [Twelve years] .	<p>When the money sued for becomes due.</p>

<sup>1</sup> See footnote 1, prepage.<sup>2</sup> This explanation was substituted by s. 4 (1) of the Indian Limitation (Amendment) Act, 1927 (1 of 1927).

(The First Schedule.—First Division: Suits.)

## THE FIRST SCHEDULE—contd.

## FIRST DIVISION: SUITS—contd.

Description of suit.	Period of limitation.	Time from which period begins to run.
(b) the value of any agricultural or other produce the right to receive which is secured by a charge upon immoveable property, shall be deemed to be money charged upon immoveable property.]	<i>Part VIII.— Twelve years— contd.</i>	
133.—To recover moveable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustees, depositary or pawnee for a valuable consideration.	1[Twelve years]	The date of the purchase.
134.—To recover possession of immoveable property conveyed or bequeathed in trust or mortgaged and afterwards transferred by the trustee or mortgagee for a valuable consideration.	1[Twelve years]	The date of the transfer.
135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	1[Twelve years]	When the mortgagor's right to possession determines.
136.—By a purchaser at a private sale for possession of immoveable property sold when the vendor was out of possession at the date of the sale.	1[Twelve years]	When the vendor is first entitled to possession.
137.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was out of possession at the date of the sale.	1[Twelve years]	When the judgment-debtor is first entitled to possession.
138.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was in possession at the date of the sale.	1[Twelve years]	The date when the sale becomes absolute.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

(The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part VIII.—Twelve years—concl'd.</i>		
139.—By a landlord to recover possession from a tenant.	<sup>1</sup> [Twelve years]	When the tenancy is determined.
140.—By a remainderman, a reversioner (other than a landlord) or a devisee, for possession of immoveable property.	<sup>1</sup> [Twelve years]	When his estate falls into possession.
141.—Like suit by a Hindu or Muhammadan entitled to the possession of immoveable property on the death of a Hindu or Muhammadan female.	<sup>1</sup> [Twelve years]	When the female dies.
142.—For possession of immoveable property when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	<sup>1</sup> [Twelve years]	The date of the dispossession or discontinuance.
143.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	<sup>1</sup> [Twelve years]	When the forfeiture is incurred or the condition is broken.
144.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	<sup>1</sup> [Twelve years]	When the possession of the defendant becomes adverse to the plaintiff.
<i>Part IX.—Thirty years.</i>		
145.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years	The date of the deposit or pawn.
146.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	<sup>1</sup> [Thirty years]	When any part of the principal or interest was last paid on account of the mortgage-debt.

<sup>1</sup> See footnote 1, prepage.

(The First Schedule.—First Division: Suits. Second Division: Appeals.)

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION: SUITS—*concl'd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
146A.—By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	<i>Part IX.—Thirty years—contd.</i> 1[Thirty years]	The date of the dispossession or discontinuance.
147.—By a mortgagee for foreclosure or sale.	<i>Part X.—Sixty years.</i> Sixty years	When the money secured by the mortgage becomes due.
148.—Against a mortgagee to redeem or to recover possession of immoveable property mortgaged.	1[Sixty years]	When the right to redeem or to recover possession accrues: Provided that all claims to redeem arising under instruments of mortgage of immoveable property situate in Lower Burma which had been executed before the first day of May, 1863, shall be governed by the rules of limitation in force in that province immediately before the same day.
149.—Any suit by or on behalf of the Secretary of State for India in Council.	1[Sixty years]	When the period of limitation would begin to run under this Act against a like suit by a private person.

SECOND DIVISION: APPEALS.

Description of appeal.	Period of limitation.	Time from which period begins to run.	
150.—Under the Code of Criminal Procedure, 1898, from a sentence of death passed by a Court of Session.	Seven days	The date of the sentence.	V of 1898.
*[150A.—Under the Code of Criminal Procedure, 1898, from a finding rejecting a claim under section 443 of that Code.	Seven days	The date of the finding.]	V of 1898.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of Rep. and Am. Act, 1923 (11 of 1923).

<sup>2</sup> Inserted by s. 42 of the Criminal Law Amendment Act, 1923 (12 of 1923).

(The First Schedule.—Second Division: Appeals. Third Division: Applications.)

THE FIRST SCHEDULE—*contd.*SECOND DIVISION: APPEALS—*contd.*

	Description of appeal.	Period of limitation.	Time from which period begins to run.
	151.—From a decree or order of any of the High Courts of Judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction.	Twenty days .	The date of the decree or order.
V of 1908.	152.—Under the Code of Civil Procedure, 1908, to the Court of a District Judge.	Thirty days .	The date of the decree or order appealed from.
	153.—Under the same Code to a High Court from an order of a Subordinate Court refusing leave to appeal to His Majesty in Council.	1[Thirty days] .	The date of the order.
V of 1898.	154.—Under the Code of Criminal Procedure, 1898, to any Court other than a High Court.	1[Thirty days] .	The date of the sentence or order appealed from.
	155.—Under the same Code to a High Court, except in the cases provided for by article 150 and article 157.	Sixty days .	The date of the sentence or order appealed from.
V of 1908.	156.—Under the Code of Civil Procedure, 1908, to a High Court, except in the cases provided for by article 151 and article 153.	Ninety days .	The date of the decree or order appealed from.
V of 1898.	157.—Under the Code of Criminal Procedure, 1898, from an order of acquittal.	Six months .	The date of the order appealed from.

## THIRD DIVISION: APPLICATIONS.

	Description of application.	Period of limitation.	Time from which period begins to run.
V of 1908.	158.—Under the Code of Civil Procedure, 1908, to set aside an award.	Ten days .	2[When the award is filed in Court and notice of the filing has been given to the parties.]

<sup>1</sup> Substituted by s. 2 and 1st Sch. of the Rep. and Am. Act, 1923 (11 of 1923).

<sup>2</sup> Substituted by the Rep. and Am. Act, 1919 (18 of 1919).

(The First Schedule.—Third Division : Applications.)

THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
159.—For leave to appear and defend a suit under summary procedure referred to in section 128 (2) (f) <sup>2</sup> [or under Order XXXVII] of the same Code.	1[Ten days]	When the summons is served.
160.—For an order under the same Code, to restore to the file an application for review rejected in consequence of the failure of the applicant to appear when the application was called on for hearing.	Fifteen days	When the application for review is rejected.
161.—For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.	1[Fifteen days]	The date of the decree or order.
162.—For a review of judgment by any of <sup>3</sup> [the following Courts, namely,] the High Courts of Judicature at Fort William, Madras, <sup>4</sup> [Bombay, Lahore and Rangoon and the Chief Court of Sind] in the exercise of its original jurisdiction.	Twenty days	The date of the decree or order.
163.—By a plaintiff, for an order to set aside a dismissal for default of appearance or for failure to pay costs of service of process or to furnish security for costs.	Thirty days	The date of the dismissal.
164.—By a defendant, for an order to set aside a decree passed <i>ex parte</i> .	1[Thirty days]	The date of the decree or, where the summons was not duly served, when the applicant has knowledge of the decree.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of the Rep. and Am. Act, 1923 (11 of 1923).<sup>2</sup> Inserted by s. 3 of the Indian Limitation (Amendment) Act, 1925 (30 of 1925).<sup>3</sup> These words were added by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).<sup>4</sup> These words were substituted by s. 2 and Sch. I, *ibid.*

(The First Schedule.—Third Division : Applications.)

THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

	Description of application.	Period of limitation.	Time from which period begins to run.
V of 1908.	165.—Under the Code of Civil Procedure, 1908, by a person dispossessed of immoveable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree to be put into possession.	1 <sup>1</sup> [Thirty days]	The date of the dispossession.
	166.—Under the same Code to set aside a sale in execution of a decree <sup>2</sup> [including any such application by a judgment debtor].	1 <sup>1</sup> [Thirty days]	The date of the sale.
	167.—Complaining of resistance or obstruction to delivery of possession of immoveable property decreed or sold in execution of a decree.	1 <sup>1</sup> [Thirty days]	The date of the resistance or obstruction.
	168.—For the readmission of an appeal dismissed for want of prosecution.	1 <sup>1</sup> [Thirty days]	The date of the dismissal.
	169.—For the re-hearing of an appeal heard <i>ex parte</i> .	1 <sup>1</sup> [Thirty days]	The date of the decree in appeal, or, where notice of the appeal was not duly served, when the applicant has knowledge of the decree.
V of 1908.	170.—For leave to appeal as a pauper.	1 <sup>1</sup> [Thirty days]	The date of the decree appealed from.
	171.—Under the Code of Civil Procedure, 1908, for an order to set aside an abatement.	Sixty days	The date of the abatement.
	172.—Under the same Code by the assignee or the receiver of an insolvent plaintiff or appellant for an order to set aside the dismissal of a suit or an appeal.	1 <sup>1</sup> [Sixty days]	The date of the order of dismissal <sup>2</sup>
	173.—For a review of judgment except in the cases provided for by article 161 and article 162.	Ninety days	The date of the decree or order.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of the Rep. and Am. Act, 1923 (11 of 1923).<sup>2</sup> These words were added by s. 4 (2) of the Indian Limitation (Amendment) Act, 1927 (1 of 1927).

(The First Schedule.—Third Division: Applications.)

THE FIRST SCHEDULE—*contd.*THIRD DIVISION: APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
174.—For the issue of a notice under the same Code, to show cause why any payment made out of Court of any money payable under a decree or any adjustment of the decree should not be recorded as certified.	<sup>1</sup> [Ninety days] .	When the payment or adjustment is made.
175.—For payment of the amount of a decree by instalments.	Six months .	The date of the decree.
176.—Under the same Code to have the legal representative of a deceased plaintiff or of a deceased appellant made a party.	<sup>2</sup> [Ninety days] .	The date of the death of the deceased plaintiff or appellant.
177.—Under the same Code to have the legal representative of a deceased defendant or of a deceased respondent made a party.	<sup>1</sup> [Ninety days] .	The date of the death of the deceased defendant or respondent.
178.—Under the same Code for the filing in Court of an award in a suit made in any matter referred to arbitration by order of the Court, or of an award made in any matter referred to arbitration without the intervention of a Court.	<sup>2</sup> [Six months] .	The date of the award.
179.—By a person desiring to appeal under the same Code to His Majesty in Council for leave to appeal.	<sup>2</sup> [Ninety days] .	The date of the decree appealed from.
180.—By a purchaser of immoveable property at a sale in execution of a decree for delivery of possession.	Three years .	When the sale becomes absolute.
181.—Applications for which no period of limitation is provided elsewhere in this schedule or by section 48 of the Code of Civil Procedure, 1908.	<sup>1</sup> [Three years] .	When the right to apply accrues.

V of 1908.

<sup>1</sup> Substituted by s. 2 and 1st Sch. of the Rep. and Am. Act, 1923 (11 of 1923).<sup>2</sup> These words were substituted by s. 2 of the Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920 (26 of 1920).

(The First Schedule.—Third Division: Applications.)

## THE FIRST SCHEDULE—contd.

## THIRD DIVISION: APPLICATIONS—contd.

Description of application.	Period of limitation.	Time from which period begins to run.
182.—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908.	Three years; or, where a certified copy of the decree or order has been registered, six years.	<ol style="list-style-type: none"> <li>1. The date of the decree or order, or</li> <li>2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or the withdrawal of the appeal, or</li> <li>3. (where there has been a review of judgment) the date of the decision passed on the review, or</li> <li>4. (where the decree has been amended) the date of amendment, or</li> <li>5. (where the application next hereinafter mentioned has been made) the date of <sup>1</sup>[the final order passed on an application made] in accordance with law to the proper Court for execution or to take some step in aid of execution of the decree or order, or</li> <li>6. <sup>1</sup>[(in respect of any amount, recovered by execution of the decree or order, which the decree-holder has been directed to refund by a decree passed in a suit for such refund) the date of such last-mentioned decree or, in the case of an appeal therefrom, the date of the final decree of the Appellate Court or of the withdrawal of the appeal], or</li> <li>7. (where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date.</li> </ol> <p><i>Explanation 1.</i>—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 5 of this</p>

<sup>1</sup>Substituted by s. 2 of the Indian Limitation (Second Amendment) Act, 1927 (9 of 1927).

(The First Schedule.—Third Division: Applications.)

THE FIRST SCHEDULE—*contd.*THIRD DIVISION: APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
182.—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908— <i>contd.</i>	Three years ; or, where a certified copy of the decree or order has been registered, six years— <i>contd.</i>	<p>article shall take effect in favour only of such of the said persons or their representatives as it may be made by. But where the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all.</p> <p>Where the decree or order has been passed severally against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said persons or their representatives as it may be made against. But, where the decree or order has been passed jointly against more persons than one, the application, if made against any one or more of them, or against his or their representatives, shall take effect against them all.</p> <p><i>Explanation II.</i>—"Proper Court" means the Court whose duty it is to execute the decree or order.</p>
183.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council.	Twelve years	<p>When a present right to enforce the judgment, decree or order accrues to some person capable of releasing the right :</p> <p>Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal</p>

(*The First Schedule.—Third Division : Applications. The Second Schedule.—Territories referred to in section 31. The Third Schedule.*)

THE FIRST SCHEDULE—*concl'd.*

THIRD DIVISION : APPLICATIONS—*concl'd.*

Description of application.	Period of limitation.	Time from which period begins to run.
183.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council— <i>cont'd.</i>	Twelve years— <i>cont'd.</i>	or interest, or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment or the latest of such revivors, payments or acknowledgments, as the case may be.

THE SECOND SCHEDULE.

TERRITORIES REFERRED TO IN SECTION 31.

(*See section 31.*)

The Presidency of Fort St. George.

<sup>1</sup>The Presidency of Bombay.

The Sambalpur District of the Bengal Division of the Presidency of Fort William.

The United Provinces of Agra and Oudh.

Burma.

The Central Provinces.

Ajmer-Merwara.

[*THE THIRD SCHEDULE.—Repealed by s. 3 and 2nd Sch. of the Second Repealing and Amending Act, 1914 (17 of 1914).*]

<sup>1</sup> As to limitation in case of certain suits under the Dekkhan Agriculturists Relief Act, 1879 (17 of 1879), see the Indian Limitation (Amendment) Act, 1912, Bom. Act 12 of 1912, Bom. Code, Vol. V.

## Criminal Law Amendment. [1908 : Act XIV.]

ACT No. X OF 1908.<sup>1</sup>

[11th September, 1908.]

An Act to make special provision for the payment of duty on salt in certain cases.

WHEREAS it is expedient to make special provision for the payment of duty on salt in certain cases ; It is hereby enacted as follows :—

Short title  
and extent.

1. (1) This Act may be called the Indian Salt-duties Act, 1908 ; and

(2) It extends to the whole of British India.

Payment of  
duty in  
certain cases.

2. Where by any enactment any duty is imposed on any salt manufactured in or imported into or transported within British India, the Governor General in Council or, <sup>2</sup>[if so empowered by the Governor General in Council, the Local Government or the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924,] may, by notification in the official Gazette, make rules providing for the payment of such duty within a period not exceeding six months from the date on which payment is due, and for the furnishing of security for such payment ; and salt may be manufactured, imported or transported in accordance with rules so made as if the duty payable thereon had been paid.

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ACT No. XIV OF 1908.<sup>3</sup>

[11th December, 1908.]

An Act to provide for the more speedy trial of certain offences, and for the prohibition of associations dangerous to the public peace.

WHEREAS it is expedient to provide for the more speedy trial of certain offences, and for the prohibition of associations dangerous to the public peace ; It is hereby enacted as follows :—

Short title  
and extent.

1. (1) This Act may be called the Indian Criminal Law Amendment Act, 1908.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 279, and for Proceedings in Council, see *ibid*, 1908, Pt. VI, pp. 127 and 149.

<sup>2</sup> Substituted for the words "the Local Government" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 203, and for Proceedings in Council, see *ibid*, Pt. VI, p. 158.

(Part I.—Special Procedure. Part II.—Unlawful Associations.)

(2) It extends to the Provinces of Bengal and of Eastern Bengal and Assam; but the <sup>1</sup>[Local Government of any other province] may, at any time, by <sup>2</sup>notification in the <sup>3</sup>[official Gazette], extend the whole or any Part thereof to <sup>4</sup>[that Province].

5(3) \* \* \* \* \*

## PART I.

### SPECIAL PROCEDURE.

[Repealed by s. 3 of Act V of 1922.]

## PART II.

### UNLAWFUL ASSOCIATIONS.

15. In this Part—

Definitions.

(1) “association” means any combination or body of persons, whether the same be known by any distinctive name or not; and

(2) “unlawful association” means an association—

(a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or

(b) which has been declared to be unlawful by the <sup>1</sup>[Local Government] under the powers hereby conferred.

<sup>1</sup> These words were substituted for the words “Governor General in Council” by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>2</sup> The Act has been extended to the Presidency of Bombay, *see* Gazette of India, Extraordinary, dated 4th January, 1910; to the Presidency of Madras, the U. P. of Agra and Oudh, the Punjab and the Central Provinces, *see* Gazette of India, Extraordinary, dated 13th January, 1910, and *ibid.*, 1910, Pt. I, p. 95.

For notification extending Pt. II of this Act to the province of Delhi, *see* Gazette of India, Extraordinary, dated 9th December, 1920; to N.-W. Frontier Province, *see* N.-W. Frontier Province Gazette, Extraordinary, dated 17th December, 1921.

The Act has been declared in force in Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), B & O. Code, Vol. I, *see* Calcutta Gazette, 1909, Pt. I, p. 649.

<sup>3</sup> These words were substituted for the words “Gazette of India” by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>4</sup> These words were substituted for the words “any other Province” by *ibid.*

<sup>5</sup> Sub-section (3) of section 1 was repealed by s. 3 of the Indian Criminal Law Amendment Repealing Act, 1922 (5 of 1922).

## (Part II.—Unlawful Associations. The Schedule.)

## Indian Ports. [1908: Act XV.]

Power to  
declare  
association  
unlawful.

16. If the <sup>1</sup>[Local Government] is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the <sup>1</sup>[Local Government] may, by notification in the official Gazette, declare such association to be unlawful.

Penalties.

17. (1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Continuance  
of associa-  
tion.

18. An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

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THE SCHEDULE.

[Repealed by s. 3 of Act V of 1922.]

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THE INDIAN PORTS ACT, 1908.

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<sup>1</sup> These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

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THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

## (Chap. I.—Preliminary.)

ACT No. XV OF 1908.<sup>1</sup>[18<sup>th</sup> December 1908.]

## An Act to consolidate the Enactments relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate the enactments relating to ports and port-charges; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title and  
extent.

1. (1) This Act may be called the Indian Ports Act, 1908.
- (2) It shall extend, save as otherwise appears from its subject or context,—
  - (a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the Regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875, or to the Indian Ports Act, 1889; XII of 1875.  
X of 1889.
  - (b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act.
- (3) But nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

Savings.

## 2. Nothing in this Act shall—

- (i) apply to any vessel belonging to, or in the service of, His Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or
- (ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or
- (iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 309; for Report of Select Committee, see *ibid.*, 1908, Pt. V, p. 359, and for Proceedings in Council, see *ibid.*, 1908, Pt. VI, pp. 145, 154 and 182.

(Chap. I.—Preliminary. Chap. II.—Powers of the Local Government.)

3. In this Act, unless there is anything repugnant in the subject Definitions, or context,—

V of 1898. (1) “Magistrate” means a person exercising powers under the Code of Criminal Procedure, 1898, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

(2) “master”, when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel :

(3) “pilot” means a person for the time being authorized by the Local Government to pilot vessels :

(4) “port” includes also any part of a river or channel in which this Act is for the time being in force :

(5) “port-officer” is synonymous with master-attendant :

(6) “ton” means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships : and

(7) “vessel” includes anything made for the conveyance by water of human beings or of property.

## CHAPTER II.

### POWERS OF THE LOCAL GOVERNMENT.

4. (1) 1\* \* \* \* \*
- The Local Government may, by notification in the local official Gazette,—
- (a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force ;
- (b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended ;

Power to extend or withdraw the Act or certain portions thereof.

<sup>1</sup> The words “With the previous sanction of the Governor General in Council” were omitted by s. 2 of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

*(Chap II.—Powers of the Local Government.)*

(c) <sup>1</sup>withdraw this Act or section 31 or section 32 from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression " high-water-mark " means the highest point reached by ordinary spring tides at any season of the year.

Alteration of  
limits of  
ports.

5. (1) The Local Government may, <sup>2\*</sup> \* \* \* \* \* subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the local official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

Power to  
make port-  
rules.

6. (1) The Local Government may, in addition to any <sup>3</sup>rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

<sup>4</sup>(a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on

<sup>1</sup> For instance of such a notification, see Fort St. George Gazette, 1909, Pt. I, p. 463.

<sup>2</sup> The words "with the previous sanction of the Governor General in Council and" were omitted by s. 3 of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

<sup>3</sup> For rules for the purpose of minimising the risk to shipping in Bombay Harbour owing to the transportation of dangerous petroleum within the port of Bombay, see Bombay Government Gazette, 1909, Pt. I, p. 1711

<sup>4</sup> For rules for the port of Aden, see Bombay Government Gazette, 1911, Pt. I, p. 7416.

<sup>5</sup> For rules under clauses (a) and (e) as to the entry, movement and loading and unloading of vessels in the port of Rangoon, see Burma Gazette, 1911, Pt. I, p. 147.

*(Chap. II.—Powers of the Local Government.)*

which, vessels generally or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this Act;

- (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;
- (c) for striking the yards and top masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;
- (d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;
- <sup>1</sup>(c) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;
- <sup>2</sup>[(ee) for regulating the manner in which oil or water mixed with oil shall be discharged in any such port and for the disposal of the same;]
- <sup>3</sup>[(eee) for regulating the bunkering of vessels with liquid fuel in any such port and the description of barges, pipe lines or tank vehicles to be employed in such bunkering;]
- (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;
- (g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

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<sup>1</sup> See footnote 4 on p. 380.

<sup>2</sup> Inserted by s. 2 of the Indian Ports (Amendment) Act, 1923 (39 of 1923).

<sup>3</sup> Inserted by s. 2 of the Indian Ports (Amendment) Act, 1925 (9 of 1925).

(Chap. II.—Powers of the Local Government.)

- (h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;
- (i) for regulating the use of the mooring buoys, chains and other moorings in any such port;
- (j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;
- <sup>1</sup>[(j)] for regulating the use of piers, jetties, landing places, wharves, quays, warehouses and sheds when belonging to the Government, and for fixing the rates to be paid for the use of the same;]
- (k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not, and whether regularly or only occasionally, in or partly within and partly without any such port <sup>2</sup>[and for licensing and regulating the crews of any such vessels] and for determining the quantity of cargo or number of passengers <sup>2</sup>[or of the crew] to be carried by any such vessels <sup>2</sup>[and may by such rules provide for the fees payable in respect of any such license, and in the case of passenger vessels plying for hire, for the rates of hire to be charged and the conditions under which such vessels shall be compelled to ply for hire, and further for the conditions under which any license may be revoked];
- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;
- (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels in any such port;

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<sup>1</sup> Inserted by s. 4 (1) of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

<sup>2</sup> Inserted by s. 4 (2), *ibid.*

*(Chap. II.—Powers of the Local Government.)*

<sup>1</sup>[(p) subject to the control of the Governor General in Council, for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and in particular and without prejudice to the generality of this provision, for—

- (i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease;
- (ii) the medical inspection of such vessels and of persons on board such vessels;
- (iii) the questions to be answered and the information to be supplied by masters, pilots and other persons on board such vessels;
- (iv) the detention of such vessels and of persons on board such vessels;
- (v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels;
- (vi) the removal to hospital or other place approved by the health-officer and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease;
- (vii) the cleansing, ventilation and disinfection of such vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels; and
- (viii) the disposal of the dead on such vessels; and]

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<sup>1</sup> Clause (p) was substituted by s. 2 of the Indian Ports (Amendment) Act, 1911 (4 of 1911).

*(Chap. II.—Powers of the Local Government.)*

(q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

- (i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew ;
- (ii) to erect windsails so far as the existing portholes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew ;
- (iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew ;
- (iv) when the quarters used by the crew and the galley are separated by an iron bulk-head only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley.

<sup>1</sup>[(1A) In addition to any rules which it is empowered to make under sub-section (1), the Local Government shall make rules prohibiting the employment at piers, jetties, landing-places, wharves, quays, docks, warehouses and sheds of children under the age of twelve years upon the handling of goods.]

(2) The power to make rules under sub-section (1) <sup>1</sup>[and sub-section (1A)] is subject to the condition of the rules being made after previous publication :

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of the Indian Ports Act, 1889, and continued by section 2, sub-section X of 1889. (2), of that Act.

(3) If any person disobeys any rule made under clause (p) of sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

(4) If a master fails wholly or in part to do any act prescribed by any rule made under clause (p) of sub-section (1), the health-officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master.

<sup>1</sup> Inserted by s. 2 of the Indian Ports (Amendment) Act, 1922 (15 of 1922).

(Chap. III.—Port-officials and their Powers and Duties.)

### CHAPTER III.

#### PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act. Appointment of conservator.

(2) Subject to any direction by the Local Government to the contrary,—

(a) in ports where there is a port-officer, the port-officer shall be the conservator :

(b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

(3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(4) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

8. (1) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6. Power of conservator to give and enforce directions for certain specific purposes.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to one hundred rupees for every day during which, after such notice as aforesaid, he is proved to have wilfully and without lawful excuse continued to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

*(Chap. III.—Port-officials and their Powers and Duties.)*

Power to cut  
warps and  
ropes.

9 The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Removal of  
obstructions  
within limits  
of port.

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

Recovery of  
expenses of  
removal.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the local official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction ;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same ;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs ;

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and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

Removal of  
lawful  
obstruc-  
tions.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator ;

Fouling of  
Government  
moorings.

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel ;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punishable with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such port so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

Raising or  
removal of  
wreck  
impeding  
navigation  
within limits  
of port.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property

*(Chap. III.—Port-officials and their Powers and Duties.)*

is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto :

Provided that the person makes his claim within three years from the date of the sale.

**Power to  
board vessels  
and enter  
buildings.**

15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges, payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable with fine which may extend to two hundred rupees.

**Power to  
require crews  
to prevent or  
extinguish  
fire.**

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punishable with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed

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by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders, shall be punishable with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer.

Appoint-  
ment and  
powers of  
health-  
officer.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers, within the limits of the port for which he is appointed, namely :—

- (a) with respect to any vessel, the powers conferred on a shipping-master by the Indian Merchant Shipping Act, 1859,<sup>1</sup> section 71;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;
- (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

I of 1859.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master, of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel :

Indemnity  
of Govern-  
ment against  
act of  
default of  
port official  
or pilot.

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

<sup>1</sup> See now s. 91 of the Indian Merchant Shipping Act, 1923 (21 of 1923).

(Chap. IV.—Rules for the Safety of Shipping and the Conservation of Ports.)

## CHAPTER IV.

### RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

#### *General Rules.*

Injuring  
buoys, bea-  
cons and  
moorings.

19. (1) No person shall, without lawful excuse lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

Wilfully  
loosening  
vessel from  
moorings.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Improperly  
discharging  
ballast.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods <sup>1</sup>[and no oil or water mixed with oil shall be discharged in or into any such port, to which any rules made under clause (ee) of sub-section (1) of section 6 apply, otherwise than in accordance with such rules].

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing <sup>1</sup>[or so discharges any oil or water mixed with oil], and the master of any vessel from which the same is so cast, <sup>2</sup>[thrown or discharged], shall be punishable with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing <sup>1</sup>[or from so discharging any oil or water mixed with oil], any

<sup>1</sup> Inserted by s. 3 of the Indian Ports (Amendment) Act, 1923 (39 of 1923).

<sup>2</sup> These words were substituted for the words "or thrown" by s. 3, *ibid.*

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master continues so to cast, <sup>1</sup>[throw or discharge the same], he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into <sup>2</sup>[or the oil or water mixed with oil is discharged in or into] any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punishable with fine which may extend to five hundred rupees each.

Graving vessel within prohibited limits.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

Boiling pitch on board vessel within prohibited limits.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

Drawing spirits by unprotected artificial light.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

Warping.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

<sup>1</sup> These words were substituted by s. 3 of the Indian Ports (Amendment) Act, 1923 (39 of 1923).

<sup>2</sup> Inserted by s. 3, *ibid*.

(Chap. IV.—*Rules for the Safety of Shipping and the Conservation of Ports.*)

Leaving out  
warp or  
hawser after  
sunset.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

Discharge of  
fire-arms in  
port.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punishable with fine which may extend to fifty rupees.

Penalty on  
master omit-  
ting to take  
order to  
extinguish  
fire.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Unautho-  
rized person  
not to search  
for lost  
stores.

29. (1) No person, without the permission of the conservator, shall, in any port subject to this Act, creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punishable with fine which may extend to one hundred rupees.

Removing  
stones or in-  
juring shores  
of port pro-  
hibited.

30. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission

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of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punishable with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

*Special Rules.*

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board; Moving of vessels without pilot or permission of harbour-master.

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority :

<sup>1</sup>[Provided that the Governor General in Council may, by notification in the Gazette of India, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.]

<sup>2</sup>[(2) Notwithstanding anything in sub-section (1), the owner or master of a vessel which is by that sub-section required to have a pilot, harbour-master or assistant of the port-officer or harbour-master on board, shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel, in the same manner as he would have been if he had not been so required by that sub-section :

Provided that the provisions of this sub-section shall not take effect till the first day of January, 1918, or such earlier date as the Governor General in Council may notify in that behalf in the Gazette of India.]

<sup>1</sup> Inserted by s. 2 of the Indian Ports (Amendment) Act, 1925 (36 of 1925).

<sup>2</sup> Inserted by s. 5 (f) of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

(Chap. IV.—Rules for the Safety of Shipping and the Conservation of Ports. Chap. V.—Port-dues, Fees and other Charges.)

<sup>1</sup>[(3)] If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1) the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

2\* \* \* \* \*

Provision of certain vessels with fire-extinguishing apparatus.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended, shall be provided with a proper force-pump and hose and appurtenances for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to five hundred rupees.

## CHAPTER V.

### PORT-DUES, FEES AND OTHER CHARGES.

Levy of port dues.

33. (1) <sup>3</sup>[Subject to the provisions of sub-section (2)], in each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

<sup>1</sup> Renumbered by s. 5 (2) of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

<sup>2</sup> Sub-sections (4) and (5), as re-numbered by Act 6 of 1916, were repealed by s. 2 (2) of the Indian Ports (Amendment) Act, 1925 (36 of 1925).

<sup>3</sup> Inserted by s. 6 of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

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1[(2) The Local Government may, by notification in the local official Gazette, alter<sup>2</sup> or add to any entry in the first schedule relating to ports within its own province, and this power shall include the power to regroup any such ports :

Provided that, if any such alteration or addition has the effect of increasing the port-dues in any such port, such alteration or addition shall require the sanction of the Governor General in Council.]

3[(3)] Whenever the Local Government <sup>4</sup> \* \* \* declares any other port to be subject to this Act, it may, <sup>4</sup> \* \* \* by the same or any subsequent declaration, further declare,—

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(c) the times at which such vessels are to be so chargeable :

5[Provided that, except with the sanction of the Governor General in Council, the rates and the times so declared shall not be respectively higher or shorter than the maximum rate and the shortest time specified and fixed in the first schedule for any port in the province.]

3[(4)] All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

3[(5)] An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government may <sup>6</sup>[after consulting the authority Variation of port-dues by Local Government.] appointed under section 36] exempt, <sup>7</sup>[subject to such conditions, if any, as it thinks fit to impose. any vessel or class of vessels] entering a

<sup>1</sup> This sub-section was inserted by s. 6 (ii) of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

<sup>2</sup> For such alterations in Pt. II of the First Schedule to the Act, see Fort St. George Gazette, 1925, Pt. I, p. 587.

<sup>3</sup> Renumbered by s. 6 (iv) of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

<sup>4</sup> The words "with the previous sanction of the Governor General in Council" and "with the like sanction" were omitted by s. 6 (iii), *ibid.*

<sup>5</sup> The proviso was added by s. 6 (iii), *ibid.*

<sup>6</sup> Inserted by s. 7, *ibid.*

<sup>7</sup> Substituted for the words "the vessels" by s. 7, *ibid.*

*(Chap. V.—Port-dues, Fees and other Charges.)*

port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as having regard to the receipts and charges on account of the port, it thinks expedient by reducing or raising the dues, or any of them <sup>1</sup>[or may extend the periods for which any vessel or class of vessels entering a port shall be exempt from liability to pay port-dues] :

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

Fees for  
pilotage and  
certain other  
services.

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct.

2\* \* \* \*

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

Receipt,  
expenditure  
and account  
of port  
charges.

36. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

3(3) \* \* \* \*

(4) All money received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

(a) fines,

(b) proceeds of waifs, and

<sup>1</sup> Inserted by s. 7 of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

<sup>2</sup> The proviso to s. 35 (1) was omitted by s. 8, *ibid.*

<sup>3</sup> Sub-section (3) of s. 36 was omitted by s. 9, *ibid.*

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(c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale, shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(a) the pay and allowances of all persons upon the establishment of the port,

(b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit to vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen whether ashore or afloat belonging to vessels in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily invested in such manner as the Local Government may direct.

**37.** (1) The Local Government may direct that for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) of that section shall form

Grouping of  
ports.

*(Chap. V.—Port-dues, Fees and other Charges.)*

a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports :

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely :—

(a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, <sup>1</sup>[subject to the control] of the Governor General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure ; and

(b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

Receipts for  
port-charges.

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

Master to  
report  
arrival.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punishable with fine which may extend to one hundred rupees.

<sup>1</sup> These words were substituted for the words "with the previous sanction" by s. 10 of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

*(Chap. V.—Port-dues, Fees and other Charges.)*

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river steamers plying to and from any of the ports subject to this Act or to ballam boats plying to and from the port of Chittagong.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

Conservator may in certain cases ascertain draught and charge expense to master.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed, namely:—

Ascertainment of tonnage of vessel liable to port-dues.

(1) (a) If the vessel is a British registered vessel or a vessel registered under the Indian Registration of Ships Act, 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punishable with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under the Indian Registration of Ships Act, 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator

X of 1841.

XI of 1850.

X of 1841.

XI of 1850.

*(Chap. V.—Port-dues, Fees and other Charges.)*

as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

- (3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

**Distrain  
and sale or  
refusal to  
pay port-  
charges.**

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act, refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs including the costs of sale remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

**No port-  
clearance to  
be granted  
until port-  
charges are  
paid.**

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

- (a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

## (Chap. V.—Port-dues, Fees and other Charges.)

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 Viet., c. 60.

- (b) until all expenses, which by the <sup>1</sup>Merchant Shipping Act, 1894, section 207, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

Port-charges payable in one port recoverable at any other port.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *primâ facie* proof of such amount in any proceeding under section 42 and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punishable with fine which may extend to five times the amount of the sum.

Penalty for evading payment of port-charges.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient *primâ facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

*(Chap. V.—Port-dues, Fees and other Charges.)*

Port-due on  
vessels in  
ballast.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

Port-due on  
vessels not  
discharging  
or taking in  
cargo.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable.

Port-due  
not to be  
chargeable in  
certain  
cases.

48. No port-due shall be chargeable in respect of—

(a) any pleasure-yacht, or

(b) any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, or

(c) any vessel which, having entered any port within the territories administered by the Governor of Fort Saint George in Council, leaves it within forty-eight hours without discharging or taking in any passengers or cargo.

Power to  
impose  
hospital  
port-dues.

49. (1) The Local Government may, by notification in the local official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(Chap. V.—*Port-dues, Fees and other Charges.* Chap. VI.—*Hoisting Signals.*)

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the local official Gazette, exempt such class of vessels from any payment under this section.

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

Application  
and account  
of hospital  
port-dues.

(2) The Local Government shall publish annually in the local official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

## CHAPTER VI.

### HOISTING SIGNALS.

51. (1) The master of every inward or outward bound vessel, on arriving within signal distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

Master to  
hoist num-  
ber of vessel.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

(Chap. VI.—Hoisting Signals. Chap. VII.—Provisions with respect to Penalties.)

Pilot to require master to hoist number.

52. (1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

Penalty on pilot disobeying provisions of this Chapter.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter, shall be punishable with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and, in addition, shall be liable to have his authority to act as a pilot withdrawn.

## CHAPTER VII.

### PROVISIONS WITH RESPECT TO PENALTIES.

Penalty for disobedience to rules and orders of the Local Government.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punishable for every such offence with fine which may extend to one hundred rupees.

Offences how triable, and penalties how recovered.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Costs of conviction.

56. (1) In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate and may be recovered in the same manner as any fine under this Act.

*(Chap. VII.—Provisions with respect to Penalties.)*

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

Ascertainment and recovery of expenses and damages payable under this Act.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the cost of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

Cost of distress.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

Magistrate to determine the amount to be levied in case of dispute.

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

Jurisdiction over offences beyond local limits of jurisdiction.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

(Chap. VII.—Provisions with respect to Penalties. Chap. VIII.—  
Supplemental Provisions.)

Conviction  
to be quash-  
ed on merits  
only.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

## CHAPTER VIII.

### SUPPLEMENTAL PROVISIONS.

Hoisting  
unlawful  
colours  
in port.

62. (1) If any vessel belonging to any of His Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the <sup>1</sup>Merchant Shipping Act, 1894, or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of His Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punishable with fine which may extend to fifty rupees.

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Vict., c. 60.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of His Majesty's Navy or Indian Marine Service, may enter on board any such vessel and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

Foreign  
deserters.

63. Any Magistrate, upon an application being made to him by the Consul of any foreign Power to which section 238 of the <sup>1</sup>Merchant Shipping Act, 1894, has, by an Order in Council, been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which

57 & 58  
Vict., c. 60.

*(Chap. VIII.—Supplemental Provisions.)*

he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month :

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the desertion and that the detention of the deserter shall not be continued beyond twelve weeks.

**64.** (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject. Application of sections 10 and 21.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

**65.** Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors. Grant of sites for sailors' institutes.

**66.** (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master. Exercise of powers of conservator by his assistants.

(2) Any person authorised by this Act to do any act may call to his aid such assistance as may be necessary.

**67.** Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof. Service of written notices of directions.

**68.** Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the local official Gazette, Publication of orders of Local Government.

*(Chap. VIII.—Supplemental Provisions.)*

and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

Authorities exercising jurisdiction in ports to co-operate in manœuvres for defence of port.

**1[68-A.** Every authority exercising any powers or jurisdiction in, or relating to, any port to which this Act for the time being applies shall, if so required by an officer authorised by general or special order of the Governor General in Council in this behalf, co-operate in such manner, as such officer may direct, in carrying out any manœuvres in connection with any scheme or preparations for the defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material :

Provided, firstly, that if any vessels are placed at the disposal of such officer in accordance with this section, the Government of India shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto.

*Explanation.*—The expression ‘running expenses’ in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels :

Provided, secondly, that any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manœuvres :

Provided, thirdly, that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.

Duties of the said authorities in an emergency.

**68-B.** Whenever the Governor General in Council is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 68A on the authorities therein mentioned, or other duties of a like nature, should be imposed on such authorities continuously during the existence of the emergency, he may, by general or special order, authorise any officer to require

<sup>1</sup> Sections 68A and 68B were inserted by s. 11 of the Indian Ports (Amendment) Act, 1916 (6 of 1916).

(Chap. VIII.—Supplemental Provisions. The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

the said authorities to perform such duties until the Governor General in Council is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely:—

The Government of India shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Governor General in Council, and the decision of such person shall be final.]

69. The enactments mentioned in the second schedule are hereby Repealed to the extent specified in the fourth column of that schedule.

### THE FIRST SCHEDULE.

#### PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See sections 1 and 33.)

##### PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta .	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that in the case of <i>dhonis</i> and country vessels employed in the coasting trade the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in sixty days.
.	Tug-steamers and river steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.

THE FIRST SCHEDULE—*contd.*PART I—BENGAL.—*contd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,—namely, Balasore, Churaman, Laichampur, Chanua, Subarna rekha, Dhamra (Chandbally) and Sartha.	Ditto	Ditto	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in thirty days.

## PART II.—MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
		<i>Foreign Vessels.</i>	
	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon calling at Madras, not exceeding four annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again.
		(b) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton.	The due is payable on each entry into the port.
		<i>Coasting Vessels.</i>	
		(c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again.
Madras		(d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The due is payable once in thirty days.

THE FIRST SCHEDULE—*contd.*PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Eastern Group.</i>			<i>Foreign Vessels.</i>	
Dis- trict.	Port.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
Gau- jam.	1. Gopalpur .	Sea-going vessels of fifteen tons and upwards.	(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	2. Baruva .			
	3. Calingapatam			
Vizaga- patam.	4. Bimlipatam		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	5. * * *			
Goda- vari.	6. Cocanada .		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	7. Coringa .			
Kistna.	8. Narasapur .		<i>Coasting Vessels.</i> (e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	9. Perupalem .			
	10. Masulipatam			
	11. Nagayalanka			
	12. Kottapalem.			
Guntur.	13. Moratata .		(f) In the case of a coasting steamer, calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	14. Gangadipalem			
	15. Nizampatnam			
	16. Ipurupalem .			
	17. Motupalle .			
	18. Kottapatnam			

<sup>1</sup> For the omission of the port of Vizagapatam, see Fort St. George Gazette, 1925, Pt. 1, p. 587.

THE FIRST SCHEDULE—*contd.*  
PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Eastern Group—contd.</i>			<i>Foreign Vessels.</i>	
District.	Port.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
Nelore.	19. Iskaalle		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
Chingleput.	20. Covelong		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
South Arcot.	21. Cuddalore	Seagoing vessels of fifteen tons and upwards.	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	22. Porto Novo			
	23. Thandavara-gasola-ganpettai. <sup>1</sup>			
	24. Tirumalavasal			
Tanjore.	25. Tranquebar		<i>Coasting Vessels.</i>	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	26. Nagore			
	27. Negapatam		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	28. Velankani			
	29. Topputurai		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	
	30. Point Calimere.			
	31. Mutupet			
	32. Adirampatnam.			
	33. Gopalapatnam			
	34. Kattumavedi			
	35. Krishnajibatnam.			
	36. Ammapatnam			
	37. Kottaiapatnam			
	38. Sundarapandiapatnam.			

<sup>1</sup> The Act has been withdrawn from this port, see Fort St. George Gazette, 1909, Pt. I, p. 257.

THE FIRST SCHEDULE—*contd.*PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Eastern Group—contd.</i>				
<i>Dis-</i>	<i>Port.</i>		<i>Foreign Vessels.</i>	
<i>trict.</i>				
Madura.	39. Vattanam .	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	40. Tondi .		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	41. Pudupatnam		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	42. Karangadu .		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	43. Tirupalankudi		<i>Coasting Vessels.</i>	
	44. Devipatnam		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	45. Mudianpatnam.		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	46. Alagayankolam.			
	47. Attankarai .			
	48. Emanangundu			
	49. Pamban .			
	50. Ramesvaram			
Tinnevely.	51. Mandapam .			
	52. Vedalai .			
	53. Muttupettai .			
	54. Kilakarai .			
	55. Ervadi .			
	56. Valinokkam .			
	57. Vembar .			
	58. Vaippar .			
	59. Tuticorin .			
	60. Ovary .			
	61. Kayalpatnam			
	62. Kulasekharapatnam.			

THE FIRST SCHEDULE—*contd.*PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Eastern Group—concl'd.</i>				
Dis- trict.	Port.	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
			(a) In the case of a foreign ship or steamer engaged in trade with the Straits Settlements or Ceylon calling at Vizagapatam, not exceeding four annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again.
			(b) In the case of any other foreign ship or steamer calling at Vizagapatam, not exceeding four annas a ton.	The due is payable on each entry into the port.
			<i>Coasting Vessels.</i>	
			(c) In the case of a coasting ship calling at Vizagapatam, not exceeding two annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again.
			(d) In the case of a coasting steamer calling at Vizagapatam, not exceeding four annas a ton.	The due is payable once in thirty days.
	<sup>1</sup> Vizagapatam			

<sup>1</sup> For the insertion of this port, see Fort St. George Gazette, 1925. Pt. I, p. 587.

THE FIRST SCHEDULE—*contd.*  
PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Western Group.</i>				
		<i>Foreign Vessels.</i>		
Dist- trict.	Port.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	63. Cochin		(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	64. Chavakad		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	{ 65. Velivangod .	Sea-going vessels of fifteen tons and upwards.	(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	66. Ponani .			
	67. Kuttayi .			
	{ 68. Parapanna .			
	69. Tanur .			
	{ 70. Parpanangadi			
	{ 71. Ferokh .			
	{ 72. Bcypore .			
	{ 73. Calicut .			
	{ 74. Kappatta .			
	{ 75. Quilandi .			
	{ 76. Kottakkal .			
	77. Badagara .			
	{ 78. Muttankal .			
	{ 79. Chompayi .			
	{ 80. Kallayi .		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	{ 81. Talayi .		(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	82. Tellicherry .			
	83. Cannanore .			
	{ 84. Pudiyangadi			
	{ 85. Azhikal .			
	{ 86. Ettikulam .			
	{ 87. Kavvayi .			
			<i>Coasting Vessels.</i>	

THE FIRST SCHEDULE—*contd.*PART II.—MADRAS PRESIDENCY—*concl'd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Western Group—contd.</i>				
Dis-trict.	Port.	<i>Foreign Vessels.</i>		
South Canara.	88. Hosdrug .	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	89. Baikal .		(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	90. Kasaragod .		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	91. Kumbale .			The due is payable once for the voyage.
	92. Manjesvara .			
	93. Mangalore .			
	94. Mulki .			
	95. Padubidri .		(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	
	96. Ermala .			
	97. Uchhila .			
	98. Kaph .		<i>Coasting Vessels.</i>	
	99. Malpe .		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	100. Hangarakatta or Barkur.			The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	101. Coondapoor.		(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	
	102. Nyakinakatte (Nayakkankottai).			
	103. Baindur .			
	104. Siruru .			

THE FIRST SCHEDULE—*contd.**Explanations to Part II of the First Schedule.*

*Explanation 1.*—In this Part of the schedule—

- (a) ["ship" means a vessel propelled solely by wind power and "steamer" any vessel other than a ship];
- (b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or any part of India, between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878;
- (c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer;

VIII of 1878.

Provided that, for the purpose of the levy of port-dues, a vessel shall not be deemed, during one and the same voyage, to be both a coasting ship or steamer and a foreign ship or steamer, but port-dues shall, in respect of such voyage, be leviable on such vessel either as a coasting or as a foreign ship or steamer, whichever rate is the higher.

*Explanation 2.*—Ports enclosed in double brackets in the first column of the schedule shall be treated as if they were only one port; every vessel in respect of which such dues have been charged and taken at one of the bracketted ports being exempted from the payment of port-dues on entering another port bracketted with it within the period specified in the fourth column of the schedule.

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<sup>1</sup> This definition was substituted by Mad. Act 1 of 1926, *see* Supplement to Madras Code.

THE FIRST SCHEDULE—*contd.*

## PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay . . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in the same month.
	Tug-steamers, ferry-steamers and river-steamers.	Ditto .	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports.</i>			
1. Goga . . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton : provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port : provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Dholera ( <i>Whittle Bandar</i> ). . .			
3. Tankari . . .			
4. Dehegam . . .			
5. Kavi . . .			
6. Dehej . . .			
7. Broach . . .			
8. Bhagwa . . .			
9. Surat . . .			
10. Matwad . . .			
11. Balsar . . .			
12. Umarsadi . . .			
13. Kolak . . .			
14. Kalai . . .			
15. Maroli . . .			
16. Umbargam . . .			
17. Gholwad . . .			
18. Dahanu Creek . . .			
19. Tarapur . . .			
20. Olivara Nava-pur . . .			
21. Satpati Creek . . .			
22. Mahim (Kelva). . .			
23. Kelva . . .			
24. Dantiora . . .			
25. Arnala . . .			

THE FIRST SCHEDULE—*contd.*  
PART III.—BOMBAY PRESIDENCY—*contd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports.</i>			
1. Bandra . . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton : provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and in addition of one-half of such highest rate.	Once in thirty days at the same port : provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesava . . .			
3. Manori . . .			
4. Utan . . .			
5. Bassein . . .			
6. Bahiwadi . . .			
7. Kalyan . . .			
8. Thana . . .			
9. Mahul . . .			
10. Trombay . . .			
11. Panwel . . .			
12. Mora . . .			
13. Karanja . . .			
14. Thal . . .			
15. Alibag . . .			
16. Revdanda . . .			
17. Mandad . . .			
18. Bankot . . .			
19. Kelshi . . .			
20. Harnai . . .			
21. Dabhoi . . .			
22. Borya . . .			
23. Jaygad . . .			
24. Varavda . . .			
25. Ratnagiri . . .			
26. Purangad . . .			
27. Jayatapur . . .			
28. Vijaydurg . . .			
29. Devgad . . .			
30. Achra . . .			
31. Malwan . . .			
32. Nivti . . .			
33. Vengurla . . .			
34. Redi . . .			
35. Kirmapani . . .			
36. Tilmati . . .			
37. Sadashivgad . . .			
38. Karwar, including Baitkhol.			
39. Bingi . . .			
40. Chendya . . .			
41. Belikeri . . .			
42. Ankola . . .			
43. Gangavali . . .			
44. Tadri . . .			
45. Kumpta . . .			
46. Honawar . . .			
47. Manki . . .			
48. Murdeshwar . . .			
49. Shirali . . .			
50. Bhatkal . . .			

THE FIRST SCHEDULE—*contd.*PART III.—BOMBAY PRESIDENCY—*concl'd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Karachi . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in three months.
	Tug-steamers and river-steamers.	Ditto .	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden . .	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

## PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon . .	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Moulmein . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pies per ton.	Ditto.

THE FIRST SCHEDULE—*concl'd.*PART IV.—BURMA—*cont'd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Kyaukpyu . .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Once in sixty days.
Akyab . .	Ditto .	Ditto .	Ditto.
Bassein . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons. Sea-going vessels of twenty-five tons and upwards.	Ditto .  Not exceeding five annas six pies per ton.	Ditto.  Ditto.
Tavoy . .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui . .	Ditto .	Ditto .	Ditto.

## PART V.—EASTERN BENGAL AND ASSAM.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Chittagong . .	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto .	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats .	Not exceeding one anna per ton.	Whenever the vessel enters the port.

## THE SECOND SCHEDULE.

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*(See section 69.)*

Year.	No.	Short title or subject.	Extent of repeal.
1889 . . .	X	The Indian Ports Act, 1889 .	So much as is unrepealed.
1891 . . .	V	The Indian Ports Act, 1891 .	The whole.
1894 . . .	II	The Indian Ports Act (1889) Amendment Act, 1894.	Ditto.
1896 . . .	IV	The Indian Ports Act (1889) Amendment Act, 1896.	Ditto.
1901 . . .	III	The Indian Ports Act, 1901 .	Ditto.
1903 . . .	V	The Indian Ports (Amend- ment) Act, 1903.	Ditto.

## THE INDIAN REGISTRATION ACT, 1908.

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## (Part I.—Preliminary.)

ACT No. XVI OF 1908.<sup>1</sup>

[18th December, 1908.]

## An Act to consolidate the enactments relating to the Registration of Documents.

WHEREAS it is expedient to consolidate the enactments relating to the registration of documents; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. (1) This Act may be called the Indian Registration Act, 1908. Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of British India, except such districts or tracts of country as the Local Government may <sup>2</sup>\* \* \* \*<sup>3</sup> exclude from its operation.

(3) It shall come into force on the first day of January, 1909.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) “ addition ” means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native of India, his caste (if any) and his father’s name, or where he is usually described as the son of his mother, then his mother’s name :

(2) “ book ” includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book :

(3) “ district ” and “ sub-district ” respectively mean a district and sub-district formed under this Act :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 325; for Report of Select Committee, see *ibid*, 1908, Pt. V, p. 387, and for Proceedings in Council, see *ibid*, 1908, Pt. VI, pp. 148, 154 and 182.

The Act has been declared in force in British Baluchistan by s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), see Bal. Code; in the Pargana of Manpur by s. 2 of the Manpur Laws Regulation, 1926 (2 of 1926); ss. 81 and 82 have been declared in force in the Angul Dist. by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, B. & O. Code, Vol. I.

<sup>2</sup> The words “with the previous sanction of the Governor General in Council” were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>3</sup> For notification excluding certain tracts in Burma from the operation of the Act, see Burma Gazette, 1913, Pt. I, p. 799; see also Regulation 4 of 1914.

For Notification excluding Putao Dist. in Burma, see Burma Gazette, 1914, Pt. I, p. 789, and the Chin Hills and the Kachin Hill Tracts, see *ibid*, 1921, Pt. I, p. 22.

(Part I.—Preliminary. Part II.—Of the Registration-establishment.)

(4) " District Court " includes the High Court in its ordinary original civil jurisdiction :

(5) " endorsement " and " endorsed " include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :

(6) " immoveable property " includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass :

(7) " lease " includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease :

(8) " minor " means a person who, according to the personal law to which he is subject, has not attained majority :

(9) " moveable property " includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property : and

(10) " representative " includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

## PART II.

### OF THE REGISTRATION-ESTABLISHMENT.

Inspector-  
General of  
Registration.

3. (1) The Local Government shall appoint<sup>1</sup> an officer to be the Inspector-General of Registration for the territories subject to such Government :

Provided that the Local Government may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector-General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government appoints in this behalf.

(2) Any Inspector-General may hold simultaneously any other office under Government.

<sup>1</sup> For notification appointing the Inspector-General of Registration for the province of Delhi, see Gazette of India, 1912, Pt. I, p. 1105.

*(Part II.—Of the Registration-establishment.)*

4. (1) The Governor of Bombay in Council may also 1\* \* \* Branch Inspector-General of Sindh, who shall have all the powers of an Inspector-General under this Act other than the power to frame rules hereinafter conferred.

(2) The Branch Inspector-General of Sindh may hold simultaneously any other office under Government.

5. (1) For the purposes of this Act, the Local Government shall form districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts. Districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively : Registrars and Sub-Registrars.

<sup>2</sup>[Provided that the Local Government may delegate, subject to such restrictions and conditions as it thinks fit, to the Inspector General of Registration the power of appointing Sub-Registrars.]

7. (1) The Local Government shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars. Offices of Registrar and Sub-Registrar.

(2) The Local Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate :

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

<sup>1</sup> The words "with the previous consent of the Governor General in Council" were omitted by s. 3 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>2</sup> This proviso was added by Sch., Pt. I, of the Decentralization Act, 1914 (4 of 1914).

## (Part II.—Of the Registration-establishment.)

Inspectors  
of Registrars  
or Registrars  
of offices.

8. (1) The Local Government may also appoint officers, to be called Inspectors of Registration-offices, and may prescribe the duties of such officers.

(2) Every such Inspector shall be subordinate to the Inspector-General.

9. [*Military cantonments may be declared sub-districts or districts.*]  
*Repealed by the Repealing and Amending Act, 1927 (10 of 1927.)*

Absence of  
Registrar or  
vacancy in  
his office.

10. (1) When any Registrar, other than the Registrar of a district including a Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the Local Government fills up the vacancy.

(2) When the Registrar of a district including a Presidency-town is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector-General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

Absence of  
Registrar on  
duty in his  
district.

11. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform, during such absence, all the duties of a Registrar except those mentioned in sections 68 and 72.

Absence of  
Sub-Regis-  
trar or  
vacancy in  
his office.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the 1[vacancy is filled up].

Report of  
certain  
appoint-  
ments and  
suspension  
and removal  
and dismis-  
sal of officers

13. (1) 2[All appointments made by the Inspector-General under section 6 and] all appointments made under section 10, section 11 or section 12 shall be reported to the Local Government by the Inspector-General.

(2) Such report shall be either special or general, as the Local Government directs.

<sup>1</sup> These words were substituted for the words "Local Government fills up the vacancy" by Sch., Pt. I of the Decentralization Act, 1914 (4 of 1914).

<sup>2</sup> These words were added by Sch., Pt. I, *ibid.*

(Part II.—Of the Registration-establishment. Part III.—Of Registrable Documents.)

(3) The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead <sup>1</sup>[and the Inspector-General of Registration may, subject to such conditions and restrictions as the Local Government may impose, exercise the like power in the case of Sub-Registrars appointed by him ].

14. (1) 2\* \* \* \* The Local Government may assign such salaries as such Government deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

Remuneration and establishments of registering officers.

(2) The Local Government may allow proper establishments for the several offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs :—" The seal of the Registrar (or of the Sub-Registrar) of ."

Seal of registering officers.

16. (1) The Local Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

Register books and fire-proof boxes.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector-General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

(3) The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

### PART III.

#### OF REGISTRABLE DOCUMENTS.

17. (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, <sup>Documents of which registration is compulsory.</sup>

<sup>1</sup> These words were added by Sch., Pt. I of the Decentralization Act, 1914 (4 of 1914).

<sup>2</sup> The words "Subject to the control of the Governor General in Council" were repealed by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

*(Part III.—Of Registrable Documents.)*

or the Indian Registration Act, 1866, or the Indian Registration Act, XX of 1866.  
 1871, or the Indian Registration Act, 1877, or this Act came or comes VIII of 1871.  
 into force, namely :— III of 1877.

- (a) instruments of gift of immoveable property ;
- (b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property ;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; and
- (d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent :

Provided that the Local Government may, by order published in the local official Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

- (2) Nothing in clauses (b) and (c) of sub-section (1) applies to—
  - (i) any composition deed ; or
  - (ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consists in whole or in part of immoveable property ; or
  - (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

*(Part III.—Of Registrable Documents.)*

- (iv) any endorsement upon or transfer of any debenture issued by any such Company; or
- (v) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or
- (vi) any decree or order of a Court and any award; or
- (vii) any grant of immoveable property by Government; or
- (viii) any instrument of partition made by a Revenue-officer; or
- (ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Act, 1871, or the Land Improvement Loans Act, 1883; or
- (x) any order granting a loan under the Agriculturists Loans Act, 1884, or instrument for securing the repayment of a loan made under that Act; or
- (xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; or
- (xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue-officer.

XXVI of  
1871.  
XIX of  
1883.

XII of 1884.

<sup>1</sup>[*Explanation.*—A document purporting or operating to effect a contract for the sale of immoveable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.]

(3) Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

<sup>1</sup> This explanation was added by s. 2 of the Indian Registration (Amendment) Act, 1927 (2 of 1927).

## (Part III.—Of Registrable Documents.)

Documents  
of which  
registration  
is optional.

18. Any of the following documents may be registered under this Act, namely :—

- (a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property ;
- (b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ;
- (c) leases of immoveable property for any term not exceeding one year, and leases exempted under section 17 ;
- (d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property ;
- (e) wills ; and
- (f) all other documents not required by section 17 to be registered.

Documents  
in language  
not under-  
stood by  
registering  
officer.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

Documents  
containing  
interlinea-  
tions, blanks,  
erasures or  
alterations.

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Description  
of property  
and maps or  
plans.

21. (1) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(Part III —Of Registrable Documents. Part IV.—Of the Time of Presentation.)

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

22. (1) Where it is, in the opinion of the Local Government, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the Local Government may, by rule<sup>1</sup> made under this Act, require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

Description of houses and land by reference to Government maps or surveys.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of section 21, sub-section (2) or sub-section (3), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.

## PART IV.

### OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution :

Time for presenting documents.

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

<sup>1</sup> For rule made by the Govt. of Bengal under s. 22, see Cal. Gaz., 1911, Pt. I, p. 78.

*(Part IV.—Of the Time of Presentation.)*

Re-registra-  
tion of cer-  
tain docu-  
ments.

<sup>1</sup>[23A. Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration :

Provided that, within three months from the twelfth day of September, 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.]

Documents  
executed by  
several per-  
sons at  
different  
times.

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

Provision  
where delay  
in presenta-  
tion is un-  
avoidable.

25. (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on

<sup>1</sup> Section 23A was inserted by s. 2 of the Indian Registration (Amendment) Act, 1917 (15 of 1917).

(Part IV.—Of the Time of Presentation. Part V.—Of the Place of Registration.)

payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied—

Documents  
executed  
out of  
British  
India.

(a) that the instrument was so executed, and

(b) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration-fee, accept such document for registration.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

Wills may  
be presented  
or deposited  
at any time.

## PART V.

### OF THE PLACE OF REGISTRATION.

23. Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (b), (c) and (d), and section 18, clauses (a), (b) and (c), shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

Place for  
registering  
documents  
relating to  
land.

29. (1) Every document other than a document referred to in section 28, and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

Place for re-  
gistering  
other docu-  
ments.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree

(Part V.—Of the Place of Registration. Part VI.—Of Presenting Documents for Registration.)

or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

Registration  
by Regis-  
trars in cer-  
tain cases.

**30.** (1) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(2) The Registrar of a district including a Presidency-town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

Registra-  
tion or ac-  
ceptance  
for deposit  
at private  
residence.

**31.** In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit :

Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

## PART VI.

### OF PRESENTING DOCUMENTS FOR REGISTRATION.

Persons to  
present do-  
cuments  
for registra-  
tion.

**32.** Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration-office,—

- (a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or
- (b) by the representative or assign of such person, or
- (c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

*(Part VI.—Of Presenting Documents for Registration.)*

33. (1) For the purposes of section 32, the following powers-of-attorney shall alone be recognized, namely :—

Power-of-attorney  
recognizable  
for purposes  
of section 32.

- (a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides ;
- (b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate ;
- (c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of His Majesty or of the Government of India :

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely :—

- (i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;
- (ii) persons who are in jail under civil or criminal process ; and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

(4) Any power-of-attorney mentioned in this section may be proved by the production of it without further proof when it purports on the

*(Part VI —Of Presenting Documents for Registration.)*

face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Enquiry  
before regis-  
tration by  
registering  
officer.

**34.** (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26 :

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon—

- (a) enquire whether or not such document was executed by the persons by whom it purports to have been executed ;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document ; and
- (c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

Procedure on  
admission  
and denial of  
execution  
respectively.

**35.** (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document,

or

(Part VI.—Of Presenting Documents for Registration. Part VII.—Of Enforcing the Appearance of Executants and Witnesses.)

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appearing or dead :

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII :

<sup>1</sup>[Provided further that the Local Government may, by notification in the local official Gazette, declare that any Sub-Registrar named in the notification shall, in respect of documents the execution of which is denied, be deemed to be a Registrar for the purposes of this subsection and of Part XII.]

## PART VII.

### OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

**36.** If any person presenting any document for registration or Procedure claiming under any document, which is capable of being so presented, <sup>where</sup> desires the appearance of any person whose presence or testimony is <sup>appearance of executant or witness is</sup> desired.

<sup>1</sup> This proviso was added by s. 2 of the Indian Registration (Amendment) Act, 1926 (13 of 1926).

(Part VII.—Of Enforcing the Appearance of Executants and Witnesses.  
Part VIII.—Of Presenting Wills and Authorities to adopt.)

necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government directs in this behalf to issue a summons requiring him to appear at the registration-office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

Officer or  
Court to  
issue and  
cause service  
of summons.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Persons  
exempt from  
appearance  
at registra-  
tion-office.

38. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration-office, or

(b) a person in jail under civil or criminal process, or

(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration-office,

shall not be required so to appear.

(2) In the case of every such person the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him or issue a commission for his examination.

Law as to  
summonses,  
commissions  
and wit-  
nesses.

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

## PART VIII.

### OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

Persons en-  
titled to  
present wills  
and author-  
ities to  
adopt.

40. (1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

*Part VIII.—Of Presenting Wills and Authorities to adopt. Part IX.—Of the Deposit of Wills.)*

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document. Registration of wills and authorities to adopt.

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied—

- (a) that the will or authority was executed by the testator or donor, as the case may be;
- (b) that the testator or donor is dead; and
- (c) that the person presenting the will or authority is, under section 40, entitled to present the same.

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PART IX.

OF THE DEPOSIT OF WILLS.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document. Deposit of wills.

43. (1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover. Procedure on deposit of wills.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly. Withdrawal of sealed cover deposited under section 42.

(Part IX.—Of the Deposit of Wills. Part X.—Of the Effects of Registration and Non-registration.)

Proceedings  
on death of  
depositor.

45. (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

Saving of  
certain  
enactments  
and powers  
of Courts.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 259 of the Indian Succession Act, 1865, or of section 81 of X of 1865, the Probate and Administration Act, 1881, or the power of any Court V of 1881, by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

## PART X.

### OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

Time from  
which  
registered  
document  
operates.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Registered  
documents  
relating to  
property  
when to take  
effect against  
oral agree-  
ments.

48. All non-testamentary documents duly registered under this Act, and relating to any property, whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Effect of  
non-registra-  
tion of docu-  
ments re-  
quired to be  
registered.

49. No document required by section 17 to be registered shall—

- (a) affect any immoveable property comprised therein, or
- (b) confer any power to adopt, or
- (c) be received as evidence of any transaction affecting such pro-  
perty or conferring such power,

unless it has been registered.

(Part X.—Of the Effects of Registration and Non-registration.

Part XI.—Of the Duties and Powers of Registering Officers.)

50. (1) Every document of the kinds mentioned in clauses (a), (b), (c) and (d) of section 17, sub-section (1), and clauses (a) and (b) of section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Certain registered documents relating to land to take effect against unregistered documents.

(2) Nothing in sub-section (1) applies to leases exempted under the proviso to sub-section (1) of section 17 or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force at the commencement of this Act.

*Explanation.*—In cases where Act No. XVI of 1864 or the Indian XX of 1866. Registration Act, 1866, was in force in the place and at the time in and at which such unregistered document was executed, “unregistered” means not registered according to such Act, and, where the document is executed after the first day of July, 1871, not registered under the Indian Registration Act, 1871, or the Indian Registration Act, 1877, VIII of 1871. III of 1877. or this Act.

## PART XI.

### OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

#### (4) As to the Register-books and Indexes.

51. (1) The following books shall be kept in the several offices hereinafter named, namely :—

Register-books to be kept in the several offices.

A—In all registration offices—

Book 1, “Register of non-testamentary documents relating to immoveable property”;

Book 2, “Record of reasons for refusal to register”;

Book 3, “Register of wills and authorities to adopt”, and

Book 4, “Miscellaneous Register”;

B—In the offices of Registrars—

Book 5, “Register of deposits of wills”.

*(Part XI.—Of the Duties and Powers of Registering Officers.)*

(2) In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 89 which relate to immoveable property, and are not wills.

(3) In Book 4 shall be entered all documents registered under clauses (d) and (f) of section 18 which do not relate to immoveable property.

(4) Nothing in this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.

Duties of  
registering  
officers when  
document  
presented.

52. (1) (a) The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and

(c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

Entries to be  
numbered  
consecutive-  
ly.

53. All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Current  
indexes and  
entries  
therein.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

Indexes to  
be made by  
registering  
officers, and  
their con-  
tents.

55. (1) Four such indexes shall be made in all registration-offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III and Index No. IV.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

*(Part XI.—Of the Duties and Powers of Registering Officers.)*

(3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

(6) Each Index shall contain such other particulars, and shall be prepared in such form, as the Inspector-General from time to time directs.

56. (1) Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector-General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I, II and III.

Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar and filed.

(2) Every Registrar receiving such copy shall file it in his office.

57. (1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the Indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

(2) Subject to the same provisions, copies of entries in Book No. 3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No. 4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

*(Part XI.—Of the Duties and Powers of Registering Officers.)*

(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

*(B) As to the Procedure on admitting to Registration.*

Particulars  
to be en-  
dorsed on  
documents  
admitted to  
registration.

58. (1) On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under section 89, there shall be endorsed from time to time the following particulars, namely :—

- (a) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent ;
- (b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act ; and
- (c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

Endorse-  
ments to be  
dated and  
signed by  
registering  
officer.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58, relating to the same document and made in his presence on the same day.

Certificate  
of registra-  
tion.

60. (1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

*(Part XI.—Of the Duties and Powers of Registering Officers.)*

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

61. (1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

Endorsements and certificate to be copied and document returned.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

62. (1) When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

Procedure on presenting document in language unknown to registering officer.

(2) The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and, for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

63. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Power to administer oaths and record of substance of statements.

(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(Part XI.—Of the Duties and Powers of Registering Officers.)

(C) *Special Duties of Sub-Registrar.*

Procedure  
where docu-  
ment relates  
to land in  
several sub-  
districts.

64. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own sub-district shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure  
where docu-  
ment relates  
to land in  
several  
districts.

65. (1) Every Sub-Registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate: and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D) *Special Duties of Registrar.*

Procedure  
after regis-  
tration of  
documents  
relating to  
land.

66. (1) On registering any non-testamentary document relating to immoveable property the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

(2) The Registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

(3) Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

*(Part XI.—Of the Duties and Powers of Registering Officers.)*

67. On any document being registered under section 30, sub-section (2), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in section 66, sub-section (1).

Procedure after registration under section 30, sub-section (2).

*(E) Of the Controlling Powers of Registrars and Inspectors-General.*

68. (1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Power of Registrars to superintend and control Sub-Registrars.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

69. (1) The Inspector-General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules<sup>1</sup> consistent with this Act—

Power of Inspector-General to superintend registration offices and make rules.

(a) providing for the safe custody of books, papers and documents

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(b) declaring what languages shall be deemed to be commonly used in each district;

(c) declaring what territorial divisions shall be recognized under section 21;

(d) regulating the amount of fines imposed under sections 25 and 34, respectively;

(e) regulating the exercise of the discretion reposed in the registering officer by section 63;

(f) regulating the form in which registering officers are to make memoranda of documents;

<sup>1</sup> For rules under this section, see the different Local Rules and Orders.

<sup>2</sup> The words "and also for the destruction of such books, papers and documents, as need no longer be kept" were repealed by s. 6 and Sch. of the Destruction of Records Act, 1917 (5 of 1917).

(Part XI.—Of the Duties and Powers of Registering Officers. Part XII.—Of Refusal to Register.)

- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51;
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;
- (i) declaring the holidays that shall be observed in the registration-offices; and
- (j) generally, regulating the proceedings of the Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official Gazette, and on publication shall have effect as if enacted in this Act.

Power of  
Inspector-  
General to  
remit fines.

70. The Inspector-General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 25 or section 34, and the amount of the proper registration fee.

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## PART XII.

### OF REFUSAL TO REGISTER.

Reasons for  
refusal to  
register to  
be recorded.

71. (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his book No. 2 and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

*(Part XII.—Of Refusal to Register.)*

**72.** (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

**73.** (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

**74.** In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

Procedure of Registrar on such application.

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

**75.** (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order by Registrar to register and procedure thereon.

## (Part XII.—Of Refusal to Register.)

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

V of 1908.

Order of  
refusal by  
Registrar.

**76.** (1) Every Registrar refusing—

(a) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(b) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Registrar under this section or section 72.

Suit in case  
of order of  
refusal by  
Registrar.

**77.** (1) Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(Part XII.—Of Refusal to Register. Part XIII.—Of the Fees for Registration, Searches and Copies. Part XIV.—Of Penalties.)

(2) The provisions contained in sub-sections (2) and (3) of section 75 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

### PART XIII.

#### OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. 1\* \* \* \* The Local Government Fees to be fixed by Local Government.  
shall prepare a table<sup>2</sup> of fees payable—  
(a) for the registration of documents;  
(b) for searching the registers;  
(c) for making or granting copies of reasons, entries or documents,  
before, on or after registration;  
and of extra or additional fees payable—  
(d) for every registration under section 30;  
(e) for the issue of commissions;  
(f) for filing translations;  
(g) for attending at private residences;  
(h) for the safe custody and return of documents; and  
(i) for such other matters as appear to the Local Government  
necessary to effect the purposes of this Act.

79. A table of the fees so payable shall be published in the Official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office. Publication of fees.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents. Fees payable on presentation.

### PART XIV.

#### OF PENALTIES.

81. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who; being charged with the endorsing, copying, translating or registering of any Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.

<sup>1</sup> The words "Subject to the control of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act 1920 (38 of 1920).

<sup>2</sup> For table of fees issued by the Local Governments, see Local Rules and Orders.

## (Part XIV.—Of Penalties.)

document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause, injury as defined in the Indian Penal Code, to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both. XLV of 1860.

## 82. Whoever—

Penalty for making false statements, delivering false copies or translations, false personation, and abetment.

- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act; or
- (b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan; or
- (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or

(d) abets anything made punishable by this Act;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Registering officer may commence prosecutions.

83. (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Branch Inspector-General of Sindh, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

Registering officers to be deemed public servants.

84. (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act. XLV of 1860.

## (Part XV.—Miscellaneous.)

## PART XV.

## MISCELLANEOUS.

85. Documents (other than wills) remaining unclaimed in any registration office for a period exceeding two years may be destroyed.

Destruction of unclaimed documents.

86. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not liable for thing *bond fide* done or refused in his official capacity.

87. Nothing done in good faith pursuant to this Act or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done invalidated by defect in appointment or procedure.

88. (1) Notwithstanding anything herein contained, it shall not be necessary for any officer of Government; or for the Administrator-General of Bengal, Madras or Bombay, or for any Official Trustee or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

Registration of documents executed by Government officers or certain public functionaries.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to any Secretary to Government or to such officer of Government, Administrator-General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. (1) Every officer granting a loan under the Land Improvement  
**XIX of 1883.** Loans Act, 1883, shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

Copies of certain orders, certificates and instruments to be sent to registering officers and filed.

(2) Every Court granting a certificate of sale of immoveable property under the Code of Civil Procedure, 1908, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

**V of 1908.**

## (Part XV.—Miscellaneous.)

(3) Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property <sup>XII of 1884.</sup> is mortgaged for the purpose of securing the repayment of the loan, and if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

(4) Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

*Exemptions from Act.*

Exemption  
of certain  
documents  
executed by  
or in favour  
of Govern-  
ment.

90. (1) Nothing contained in this Act or in the Indian Registration Act, 1877, or in the Indian Registration Act, 1871, or in any Act thereby <sup>III of 1877.</sup> repealed, shall be deemed to require, or to have at any time required, <sup>VIII of 1871.</sup> the registration of any of the following documents or maps, namely :—

- (a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement; or
- (b) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or
- (c) documents which, under any law for the time being in force, are filed periodically in any revenue-office by patwaris or other officers charged with the preparation of village-records; or
- (d) sanads, inam title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land; or
- (e) notices given under section 74 or section 76 of the <sup>1</sup>Bombay Land-Revenue Code, 1879, of relinquishment of occupancy by <sup>Bom. V of 1879.</sup> occupants or of alienated land by holders of such land.

*(Part XV.—Miscellaneous The Schedule —Repeal of Enactments.)*

(2) All such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous payment of such fees as the Local Government prescribes in this behalf, all documents and maps mentioned in section 90, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

92. All rules relating to registration enforced in Lower Burma prior to the commencement of the Indian Registration Act, 1877, shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

*Repeals.*

93. (1) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

(2) Nothing herein contained shall be deemed to affect any provision of any enactment in force in any part of British India and not hereby expressly repealed.

## THE SCHEDULE.

## REPEAL OF ENACTMENTS.

*(See section 93.)*

Year.	No.	Short title.	Extent of repeal.
1877	III	The Indian Registration Act, 1877.	The whole.
1879	XII	The Registration and Limitation Acts Amendment Act, 1879.	So much as is unrepealed.
1883	XIX	The Land Improvement Loans Act, 1883.	So much of section 12 as is unrepealed.
1886	VII	The Indian Registration Act, 1886.	The whole.
1888	VII	The Civil Procedure Code Amendment Act, 1888.	So much as is unrepealed.
1891	XII	The Amending Act, 1891.	In the second schedule the entries relating to Act III of 1877.
1899	XVII	The Indian Registration (Amendment) Act, 1899.	The whole.

## THE PRESIDENCY-TOWNS INSOLVENCY ACT, 1909.

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(Preliminary.)

ACT No. III OF 1909.<sup>1</sup>

[12th March, 1909.]

An Act to amend the law of Insolvency in the Presidency-towns and the town of Rangoon.

WHEREAS it is expedient to amend the law relating to insolvency in the Presidency-towns and the <sup>2</sup>[towns of Rangoon and Karachi]; It is hereby enacted as follows :—

## PRELIMINARY.

1. (1) This Act may be called the Presidency-towns Insolvency Act, 1909.

Short title  
and com-  
mencement.

(2) It shall come into force on the first day of January 1910.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “creditor” includes a decree-holder;

(b) “debt” includes a judgment-debt, and “debtor” includes a judgment-debtor;

<sup>3</sup>[(bb) “judge” includes a Judicial Commissioner and an Additional Judicial Commissioner;

(bbb) “limits of the ordinary original civil jurisdiction” means, in respect of the <sup>4</sup>[Chief Court of Sind] the limits of the municipal district of Karachi as from time to time constituted under the Bombay District Municipal Act, 1901, the Port of Karachi, the Cantonments of Karachi and Manora, and any area within the original civil jurisdiction of the said Court notified in this behalf by the Local Government.]

(c) “official assignee” includes an acting official assignee;

Bom.  
Act III of  
1901.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 275, for Report of Select Committee, see *ibid*, 1909, Pt. V, page 3; and for Proceedings in Council, see *ibid*, 1908, Pt. VI, pages 41 and 182, and *ibid*, 1909, Pt. VI, pages 12 and 22.

<sup>2</sup> These words were substituted for the words “town of Rangoon” by s. 4 (a) and (b) of the Insolvency (Amendment) Act, 1926 (9 of 1926).

<sup>3</sup> Inserted by s. 3, *ibid*.

<sup>4</sup> These words are to be read for the words “Court of the Judicial Commissioner of Sind” when the Sindh Courts (Supplementary) Act, 1926 (34 of 1926), comes into force.

## (Preliminary. Part I.—Constitution and Powers of Court.)

- (d) “prescribed” means prescribed by rules;
- (e) “property” includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;
- (f) “rules” means rules made under this Act;
- (g) “secured creditor” includes a landlord who under any enactment for the time being in force has a charge on land for the rent of that land;
- (h) “the Court” means the Court exercising jurisdiction under this Act; and
- (i) “transfer of property” includes a transfer of any interest therein and any charge created thereon.

## PART I.

## CONSTITUTION AND POWERS OF COURT.

*Jurisdiction.*

Courts  
having  
jurisdiction  
in insolvency.

3. The Courts having jurisdiction in insolvency under this Act shall be—

- (a) the High Courts of Judicature at Fort William, Madras, <sup>1</sup>[Bombay and Rangoon], and
- (b) <sup>2</sup>[the Chief Court of Sind.]

Jurisdiction  
to be exercised  
by a  
single Judge.

4. All matters in respect of which jurisdiction is given by this Act shall be ordinarily transacted and disposed of by or under the direction of one of the Judges of the Court, and the Chief Justice or <sup>3</sup>[Chief Judge] shall, from time to time, assign a Judge for that purpose.

Exercise of  
jurisdiction  
in chambers.

5. Subject to the provisions of this Act and of rules, the Judge of a Court exercising jurisdiction in insolvency may exercise in chambers the whole or any part of his jurisdiction.

Delegation  
of powers to  
officers of  
Court.

6. (1) The Chief Justice or <sup>3</sup>[Chief Judge] may, from time to time direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, an officer of the Court appointed by him in this

<sup>1</sup> These words were substituted for the words “and Bombay” by s. 4 (a) and (b) of the Insolvency (Amendment) Act, 1926 (9 of 1926).

<sup>2</sup> These words are to be read into the Act when the Sindh Courts (Supplementary) Act, 1926 (34 of 1926), is brought into force.

<sup>3</sup> These words are to be deemed as having been substituted by s. 2 of the Sindh Courts (Supplementary) Act, 1926 (34 of 1926), for the words “Judicial Commissioner” which were substituted for the original words by ss. 5 and 6 of the Insolvency (Amendment) Act, 1926 (9 of 1926).

<sup>4</sup> For order issued by the Chief Justice of High Court, Madras, see Fort St. George Gazette, 1910, Pt. II, p. 735.

## (Part I.—Constitution and Powers of Court.)

behalf shall have all or any of the powers in this section mentioned ; and any order made or act done by such officer in the exercise of the said powers shall be deemed the order or act of the Court.

(2) The powers referred to in sub-section (1) are the following, namely :—

- (a) to hear insolvency petitions presented by debtors, and to make orders of adjudication thereon ;
- (b) to hold the public examination of insolvents ;
- (c) to make any order or exercise any jurisdiction which is prescribed as proper to be made or exercised in chambers ;
- (d) to hear and determine any unopposed or *ex-parte* application ;
- (e) to examine any person summoned by the Court under section 36.

(3) An officer appointed under this section shall not have power to commit for contempt of Court.

7. Subject to the provisions of this Act, the Court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of insolvency coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case :

Power of Court to decide all questions arising in insolvency.

<sup>1</sup>[Provided that, unless all the parties otherwise agree, the power hereby given shall, for the purpose of deciding any matter arising under section 36, be exercised only in the manner and to the extent provided in that section.]

*Appeals.*

8. (1) The Court may review, rescind or vary any order made by it under its insolvency jurisdiction.

Appeals in insolvency.

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<sup>1</sup> This proviso was added by s. 2 of the Presidency-towns Insolvency (Amendment) Act, 1927 (19 of 1927).

(Part I.—Constitution and Powers of Court. Part II.—Proceedings from Act of Insolvency to Discharge.)

(2) Orders in insolvency matters shall, at the instance of any person aggrieved, be subject to appeal as follows, namely :—

- (a) an appeal from an order made by an officer of the Court empowered under section 6 shall lie to the Judge assigned under section 4 for the transaction and disposal of matters in insolvency and no further appeal shall lie except by leave of such Judge;
- (b) save as otherwise provided in clause (a), an appeal from an order made by a Judge in the exercise of the jurisdiction conferred by this Act shall lie in the same way and be subject to the same provisions as an appeal from an order made by a Judge in the exercise of the ordinary original civil jurisdiction of the Court.

## PART II.

### PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

#### *Acts of insolvency.*

Acts of insolvency.

9. A debtor commits an act of insolvency in each of the following cases, namely :—

- (a) if, in British India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally;
- (b) if, in British India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors;
- (c) if, in British India or elsewhere, he makes any transfer of his property or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent;
- (d) if, with intent to defeat or delay his creditors,—
  - (i) he departs or remains out of British India,
  - (ii) he departs from his dwelling-house or usual place of business or otherwise absents himself,
  - (iii) he secludes himself so as to deprive his creditors of the means of communicating with him;

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

- (e) if any of his property has been sold or attached for a period of not less than twenty-one days in execution of the decree of any Court for the payment of money ;
- (f) if he petitions to be adjudged an insolvent ;
- (g) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts ;
- (h) if he is imprisoned in execution of the decree of any Court for the payment of money.

*Explanation.*—For the purposes of this section, the act of an agent may be the act of the principal, even though the agent have no specific authority to commit the act.

*Order of adjudication.*

10. Subject to the conditions specified in this Act, if a debtor com- Power to ad-  
judicate.  
mits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

*Explanation.*—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

11. The Court shall not have jurisdiction to make an order of adjudication, unless— Restrictions  
on jurisdic-  
tion.

- (a) the debtor is, at the time of the presentation of the insolvency petition, imprisoned in execution of the decree of a Court for the payment of money in any prison to which debtors are ordinarily committed by the Court in the exercise of its ordinary original jurisdiction ; or
- (b) the debtor, within a year before the date of the presentation of the insolvency petition, has ordinarily resided or had a dwelling-house or has carried on business either in person or through an agent within the limits of the ordinary original civil jurisdiction of the Court ; or
- (c) the debtor personally works for gain within those limits ; or

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

- (d) in the case of a petition by or against a firm of debtors the firm has carried on business within a year before the date of the presentation of the insolvency petition within those limits.

Conditions  
on which  
creditor may  
petition.

12. (1) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

- (a) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and
- (b) the debt is a liquidated sum payable either immediately or at some certain future time, and
- (c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent or give an estimate of the value of the security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

Proceedings  
and order on  
creditor's  
petition.

13. (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts.

(2) At the hearing the Court shall require proof of—

- (a) the debt of the petitioning creditor, and
- (b) the act of insolvency or, if more than one act of insolvency is alleged in the petition, some one of the alleged acts of insolvency.

(3) The Court may adjourn the hearing of the petition and order service thereof on the debtor.

(4) The Court shall dismiss the petition—

- (a) if it is not satisfied with the proof of the facts referred to in sub-section (2); or

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

(b) if the debtor appears and satisfies the Court that he is able to pay his debts, or that he has not committed an act of insolvency or that for other sufficient cause no order ought to be made.

(5) The Court may make an order of adjudication if it is satisfied with the proof above referred to, or if on a hearing adjourned under sub-section (3) the debtor does not appear and service of the petition on him is proved, unless in its opinion the petition ought to have been presented before some other Court having insolvency jurisdiction.

(6) Where the debtor appears on the petition and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against the debtor in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(7) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make an order of adjudication on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition on which proceedings have been stayed as aforesaid.

(8) A creditor's petition shall not, after presentation, be withdrawn without the leave of the Court.

14. <sup>1</sup>[(1)] A debtor shall not be entitled to present an insolvency petition unless—

Conditions  
on which  
debtor may  
petition.

- (a) his debts amount to five hundred rupees, or
- (b) he has been arrested and imprisoned in execution of the decree of any Court for the payment of money, or
- (c) an order of attachment in execution of such a decree has been made and is subsisting against his property.

<sup>1</sup> This section was re-numbered by s. 2 of the Insolvency (Amendment) Act, 1927 (11 of 1927).

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

<sup>1</sup>[(2) A debtor in respect of whom an order of adjudication, whether made under this Act or under the Provincial Insolvency Act, 1920, has been annulled owing to his failure to apply or to prosecute an application for his discharge shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts substantially different from those contained in the petition on which the order of adjudication was made.] V of 1920.

Proceedings  
and order  
on debtor's  
petition.

15. (1) A debtor's petition shall allege that the debtor is unable to pay his debts, and, if the debtor proves that he is entitled to present the petition, the Court may thereupon make an order of adjudication, unless in its opinion the petition ought to have been presented before some other Court having insolvency jurisdiction.

(2) A debtor's petition shall not, after presentation, be withdrawn without the leave of the Court.

<sup>2</sup>[(3) On the making of the order admitting his petition, a debtor shall—

(a) unless the Court otherwise directs, produce all his books of account, and

(b) file such lists of creditors and debtors and afford such assistance to the Court as may be prescribed,

failing which the Court may dismiss his petition.]

Discretion-  
ary powers  
as to ap-  
pointment of  
interim  
receiver.

16. The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of an insolvency petition and before an order of adjudication is made, appoint the official assignee to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or any part thereof, and the official assignee shall thereupon have such of the powers conferable on a receiver appointed under the Code of Civil Procedure, 1908, as may be prescribed. V of 1908.

<sup>1</sup> This sub-section was added by s. 2 of the Insolvency (Amendment)-Act, 1927 (11 of 1927).

<sup>2</sup> This sub-section was added by s. 3 of the Presidency-towns Insolvency (Amendment) Act, 1927 (19 of 1927).

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

17. On the making of an order of adjudication, the property of the insolvent wherever situate shall vest in the official assignee and shall become divisible among his creditors, and thereafter, except as directed by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable in insolvency shall, during the pendency of the insolvency proceedings, have any remedy against the property of the insolvent in respect of the debt or shall commence any suit or other legal proceeding except with the leave of the Court and on such terms as the Court may impose :

Effect of  
order of  
adjudication.

Provided that this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

18. (1) The Court may, at any time after the making of an order of adjudication, stay any suit or other proceeding pending against the insolvent before any Judge or Judges of the Court or in any other Court subject to the superintendence of the Court.

Stay of  
proceedings.

(2) An order made under sub-section (1) may be served by sending a copy thereof, under the seal of the Court, by post to the address for service of the plaintiff or other party prosecuting such suit or proceeding, and notice of such order shall be sent to the Court before which the suit or proceeding is pending.

(3) Any Court in which proceedings are pending against a debtor may on proof that an order of adjudication has been made against him under this Act, either stay the proceedings or allow them to continue on such terms as it may think just.

19. (1) If in any case the Court, having regard to the nature of the debtor's estate or business or to the interests of the creditors generally, is of opinion that a special manager of the estate or business ought to be appointed to assist the official assignee, the Court may appoint a manager thereof accordingly to act for such time as the Court may authorize, and to have such powers of the official assignee as may be entrusted to him by the official assignee or as the Court may direct.

Power to  
appoint  
special  
manager.

(2) The special manager shall give security and furnish accounts in such manner as the Court may direct, and shall receive such remuneration as the Court may determine.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

Advertise-  
ment of  
order of  
adjudication.

20. Notice of every order of adjudication, stating the name, address and description of the insolvent, the date of the adjudication, the Court by which the adjudication is made and the date of presentation of the petition, shall be published in the Gazette of India and in the local official Gazette and in such other manner as may be prescribed.

*Annulment of adjudication.*

Power for  
Court to  
annul adjudi-  
cation in  
certain cases.

21. (1) Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent are paid in full, the Court may, on the application of any person interested, by order annul the adjudication <sup>1</sup>[and the Court may, of its own motion or on application made by the official assignee or any creditor, annul any adjudication made on the petition of a debtor who was, by reason of the provisions of sub-section (2) of section 14, not entitled to present such petition].

(2) For the purposes of this section, any debt disputed by a debtor shall be considered as paid in full, if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

Concurrent  
proceedings  
in British  
Courts.

22. Where it is proved to the satisfaction of the Court that insolvency proceedings are pending in any other British Court whether within or without British India against the same debtor and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or may stay all proceedings thereon.

Proceedings  
on annul-  
ment.

23. (1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official assignee or other person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint,

<sup>1</sup> These words were added by s. 3 of the Insolvency (Amendment) Act, 1927 (11 of 1927).

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such terms and subject to such conditions (if any) as the Court may declare by order.

(2) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled as aforesaid, the Court may, if it thinks fit, recommit the debtor to his former custody, and the jailor or keeper of the prison to whose custody such debtor is so recommitted shall receive such debtor into his custody according to such recommitment, and thereupon all processes which were in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if such order had not been made.

(3) Notice of the order annulling an adjudication shall be published in the Gazette of India and in the local official Gazette and in such other manner as may be prescribed.

*Proceedings consequent on order of adjudication.*

24. (1) Where an order of adjudication is made against a debtor, he shall prepare and submit to the Court a schedule verified by affidavit, in such form and containing such particulars of and in relation to his affairs as may be prescribed.

*Insolvent's  
schedule.*

(2) The schedule shall be so submitted within the following times, namely :—

- (a) if the order is made on the petition of the debtor, within thirty days from the date of the order,
- (b) if the order is made on the petition of a creditor, within thirty days from the date of service of the order.

(3) If the insolvent fails, without reasonable excuse, to comply with the requirements of this section, the Court may, on the application of the official assignee or of any creditor, make an order for his committal to the civil prison.

(4) If the insolvent fails to prepare and submit any such schedule as aforesaid, the official assignee may, at the expense of the estate, cause such a schedule to be prepared in manner prescribed.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)***Protection  
order.**

25. (1) Any insolvent who shall have submitted his schedule as aforesaid may apply to the Court for protection, and the Court may, on such application, make an order for the protection of the insolvent from arrest or detention.

(2) A protection order may apply either to all the debts mentioned in the schedule or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(3) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order shall apply, and any insolvent arrested or detained contrary to the terms of such order shall be entitled to his release :

Provided that no such order shall operate to prejudice the right of any creditor in the event of such order being revoked or the adjudication annulled.

(4) Any creditor shall be entitled to appear and oppose the grant of a protection order, but the insolvent shall be *prima facie* entitled to such order on production of a certificate signed by the official assignee that he has so far conformed to the provisions of this Act.

(5) The Court may make a protection order before an insolvent has submitted his schedule if it thinks it necessary to do so in the interests of the creditors.

**Meetings of  
creditors.**

26. (1) At any time after the making of an order of adjudication against an insolvent, the Court, on the application of a creditor or of the official assignee, may direct that a meeting of creditors shall be held to consider the circumstances of the insolvency and the insolvent's schedule and his explanation thereof and generally as to the mode of dealing with the property of the insolvent.

(2) With respect to the summoning of and proceedings at a meeting of creditors the rules in the First Schedule shall be observed.

**Public exa-  
mination of  
the insol-  
vent.**

27. (1) Where the Court makes an order of adjudication it shall hold a public sitting on a day to be appointed by the Court, of which notice shall be given to creditors in the prescribed manner, for the examination of the insolvent, and the insolvent shall attend thereat, and shall be examined as to his conduct, dealings and property.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the filing of the insolvent's schedule.

(3) Any creditor who has tendered a proof or a legal practitioner on his behalf may question the insolvent concerning his affairs and the causes of his failure.

(4) The official assignee shall take part in the examination of the insolvent; and for the purpose thereof, subject to such directions as the Court may give, may be represented by a legal practitioner.

(5) The Court may put such questions to the insolvent as it may think expedient.

(6) The insolvent shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down in writing and shall be read over either to or by the insolvent and signed by him, and may thereafter be used in evidence against him and shall be open to the inspection of any creditor at all reasonable times.

(7) When the Court is of opinion that the affairs of the insolvent have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall not preclude the Court from directing further examination of the insolvent whenever it may deem fit to do so.

(8) Where the insolvent is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the Court makes him unfit to attend his public examination, or is a woman who according to the customs and manners of the country ought not to be compelled to appear in public, the Court may make an order dispensing with such examination, or directing that the insolvent be examined on such terms, in such manner and at such place as to the Court seems expedient.

*Composition and schemes of arrangement.*

28. (1) An insolvent may at any time after the making of an order of adjudication submit a proposal for a composition in satisfaction of his debts or a proposal for a scheme of arrangement of his affairs in the prescribed form, and such proposal shall be submitted by the official assignee to a meeting of creditors.

Submission  
of proposal  
and accep-  
tance by  
creditors.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

(2) The official assignee shall send to each creditor who is mentioned in the schedule, or who has tendered a proof before the meeting, a copy of the insolvent's proposals with a report thereon, and if on the consideration of such proposal the majority in number and three-fourths in value of all the creditors whose debts are proved resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The insolvent may at the meeting amend the terms of his proposal if the amendment is in the opinion of the official assignee calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form, addressed to the official assignee so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

Approval of  
proposal by  
Court.

29. (1) The insolvent or the official assignee may after the proposal is accepted by the creditors apply to the Court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(2) Except where an estate is being summarily administered or special leave of the Court has been obtained, the application shall not be heard until after the conclusion of the public examination of the insolvent. Any creditor who has proved may be heard by the Court in opposition to the application notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(3) The Court shall before approving the proposal hear a report of the official assignee as to the terms thereof and as to the conduct of the insolvent and any objections which may be made by or on behalf of any creditor.

(4) Where the Court is of opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors or in any case in which the Court is required to refuse the insolvent's discharge, the Court shall refuse to approve the proposal.

(5) Where any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than four annas in the rupee on all the unsecured debts provable against the debtor's estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(7) In any other case the Court may either approve or refuse to approve the proposal.

30. (1) If the Court approves the proposal, the terms shall be embodied in an order of the Court, and an order shall be made annulling the adjudication, and the provisions of section 23, sub-sections (1) and (3), shall thereupon apply, and the composition or scheme shall be binding on all the creditors so far as relates to any debt due to them from the insolvent and provable in insolvency. Order on approval.

(2) The provisions of the composition or scheme may be enforced by the Court on application by any person interested, and any disobedience of an order of the Court made on the application shall be deemed a contempt of Court.

31. (1) If default is made in the payment of any instalment due in pursuance of any composition or scheme, approved as aforesaid, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, re-adjudge the debtor insolvent and annul the composition or scheme, and the property of the debtor shall thereupon vest in the official assignee but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme. Power to re-adjudge debtor insolvent.

(2) Where a debtor is re-adjudged insolvent under sub-section (1), all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency.

32. Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions Limitation of effect of composition or scheme.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

of this Act, the insolvent would not be discharged by an order of discharge in insolvency, unless the creditor assents to the composition or scheme.

*Control over person and property of insolvent.*

Duties of insolvent as to discovery and realization of property.

**33.** (1) Every insolvent shall, unless prevented by sickness or other sufficient cause, attend any meeting of his creditors which the official assignee may require him to attend, and shall submit, to such examination and give such information as the meeting may require.

(2) The insolvent shall—

- (a) give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively,
- (b) submit to such examination in respect of his property or his creditors,
- (c) wait at such times and places on the official assignee or special manager,
- (d) execute such powers-of-attorney, transfers and instruments, and
- (e) generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors,

as may be required by the official assignee or special manager or may be prescribed or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official assignee or special manager, or any creditor or person interested.

(3) The insolvent shall aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors.

(4) If the insolvent wilfully fails to perform the duties imposed upon him by this section, or to deliver up possession to the official assignee of any part of his property, which is divisible amongst his creditors under this Act and which is for the time being in his possession or under his control, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

(Part II.—*Proceedings from Act of Insolvency to Discharge.*)

34. (1) The Court may, either of its own motion or at the instance of the official assignee or of any creditor, by warrant addressed to any police-officer or prescribed officer of the Court, cause an insolvent to be arrested, and committed to the civil prison or if in prison to be detained until such time as the Court may order, under the following circumstances, namely :—

Arrest of insolvent.

(a) if it appears to the Court that there is probable reason for believing that he has absconded or is about to abscond with a view of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in insolvency against him ; or

(b) if it appears to the Court that there is probable reason for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official assignee, or that there is probable reason for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his insolvency ; or

(c) if he removes any property in his possession above the value of fifty rupees without the leave of the official assignee.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

35. Where the official assignee has been appointed interim receiver or an order of adjudication is made, the Court, on the application of the official assignee, may, from time to time, order that for such time, not exceeding three months, as the Court thinks fit, all post letters, whether registered or unregistered, parcels and money orders addressed to the debtor at any place or places mentioned in the order for re-direction, shall be re-directed, or delivered by the Postal authorities in British India, to the official assignee, or otherwise as the Court directs and the same shall be done accordingly.

Redirection of letters.

36. (1) The Court may, on the application of the official assignee or of any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in such manner as may

Discovery of insolvent's property.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

be prescribed the insolvent or any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court may deem capable of giving information respecting the insolvent, his dealings or property; and the Court may require any such person to produce any documents in his custody or power relating to the insolvent, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine any person so brought before it concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner.

(4) <sup>1</sup>[If on his examination any such person admits] that he is indebted to the insolvent, the Court may, on the application of the official assignee, order him to pay to the official assignee, at such time and in such manner as to the Court seems expedient, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Court thinks fit, with or without costs of the examination.

(5) <sup>1</sup>[If on his examination any such person admits] that he has in his possession any property belonging to the insolvent, the Court may, on the application of the official assignee, order him to deliver to the official assignee that property, or any part thereof, at such time, in such manner and on such terms as to the Court may seem just.

(6) Orders made under sub-sections (4) and (5) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908, respectively.

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(7) Any person making any payment or delivery in pursuance of an order made under sub-section (4) or sub-section (5) shall by such payment

<sup>1</sup>These words were substituted for the words "If on the examination of any such person the court is satisfied" by s. 4 of the Presidency-towns Insolvency (Amendment) Act, 1927 (19 of 1927).

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

or delivery be discharged from all liability whatsoever in respect of such debt or property.

37. The Court shall have the same powers to issue commissions and letters of request for the examination on commission or otherwise of any person liable to examination under section 36 as it has for the examination of witnesses under the Code of Civil Procedure, 1908.

¶ of 1908.

*Discharge of Insolvent.*

38. (1) An insolvent may, at any time after the order of adjudication, apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but, save where the public examination of the insolvent has been dispensed with under the provisions of this Act, the application shall not be heard until after such examination has been concluded. The application shall be heard in open Court.

(2) On the hearing of the application, the Court shall take into consideration any report of the official assignee as to the insolvent's conduct and affairs and, subject to the provisions of section 39, may—

- (a) grant or refuse an absolute order of discharge, or
- (b) suspend the operation of the order for a specified time, or
- (c) grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the insolvent, or with respect to his after-acquired property.

39. (1) The Court shall refuse the discharge in all cases where the insolvent has committed any offence under this Act, or under sections 421 to 424 of the Indian Penal Code, and shall, on proof of any of the facts hereinafter mentioned, either—

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- (a) refuse the discharge; or
- (b) suspend the discharge for a specified time; or
- (c) suspend the discharge until a dividend of not less than four annas in the rupee has been paid to the creditors; or
- (d) require the insolvent as a condition of his discharge to consent to a decree being passed against him in favour of the official assignee for any balance or part of any balance of the debts

Cases in which the Court must refuse an absolute discharge.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

provable under the insolvency which is not satisfied at the date of his discharge; such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the insolvent in such manner and subject to such conditions as the Court may direct; but in that case the decree shall not be executed without leave of the Court, which leave may be given on proof that the insolvent since his discharge acquired property or income available for payment of his debts.

(2) The facts hereinbefore referred to are—

- (a) that the insolvent's assets are not of a value equal to four annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of such value has arisen from circumstances for which he cannot justly be held responsible;
- (b) that the insolvent has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency;
- (c) that the insolvent has continued to trade after knowing himself to be insolvent;
- (d) that the insolvent has contracted any debt provable under this Act without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it;
- (e) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (f) that the insolvent has brought on or contributed to his insolvency by rash or hazardous speculations or by unjustifiable extravagance in living or by gambling, or by culpable neglect of his business affairs;
- (g) that the insolvent has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any suit properly brought against him;

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

(h) that the insolvent has within three months preceding the time of presentation of the petition incurred unjustifiable expense by bringing a frivolous or vexatious suit;

(i) that the insolvent has within three months preceding the date of the presentation of the petition, when unable to pay his debts as they become due, given an undue preference to any of his creditors;

(j) that the insolvent has concealed or removed his books or his property or any part thereof or has been guilty of any other fraud or fraudulent breach of trust.

(3) The power of suspending and of attaching conditions to an insolvent's discharge may be exercised concurrently.

(4) On any application for discharge the report of the official assignee shall be *prima facie* evidence and the Court may presume the correctness of any statement contained therein.

40. Notice of the appointment by the Court of the day for hearing the application for discharge shall be published in the prescribed manner and sent one month at least before the day so appointed to each creditor who has proved, and the Court may hear the official assignee and may also hear any creditor. At the hearing the Court may put such questions to the insolvent and receive such evidence as it may think fit.

41. If an insolvent does not appear on the day so appointed for hearing his application for discharge or if an insolvent shall not apply to the Court for an order of discharge within such time as may be prescribed, the Court, on the application of the official assignee or of a creditor or of its own motion, may annul the adjudication or make such other order as it may think fit, and the provisions of section 23 shall apply on such annulment.

42. (1) Where the Court refuses the discharge of the insolvent it may, after such time and in such circumstances as may be prescribed, permit him to renew his application.

(2) Where an order of discharge is made subject to conditions and at any time after the expiration of two years from the date of the order the insolvent shall satisfy the Court that there is no reasonable probability of his being in a position to comply with the terms of such

Hearing of  
application  
for discharge.

Power to  
annul ad-  
judication  
on failure to  
apply for  
discharge.

Renewal of  
application  
and varia-  
tion of terms  
of order.

*(Part II.—Proceedings from Act of Insolvency to Discharge.)*

order, the Court may modify the terms of the order, or of any substituted order, in such manner and upon such conditions as it may think fit.

Duty of discharged insolvent to assist in realization of property.

**43.** A discharged insolvent shall, notwithstanding his discharge, give such assistance as the official assignee may require in the realization and distribution of such of his property as is vested in the official assignee, and, if he fails to do so, shall be guilty of a contempt of Court; and the Court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

Fraudulent settlements.

**44.** In either of the following cases, that is to say :—

- (1) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or
- (2) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

if the settlor is adjudged insolvent or compounds or arranges with his creditors, and it appears to the Court that the settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement.

Effect of order of discharge.

**45.** (1) An order of discharge shall not release the insolvent from—

- (a) any debt due to the Crown;
- (b) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party; or
- (c) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or
- (d) any liability under an order for maintenance made under section

488 of the Code of Criminal Procedure, 1898.

(Part II.—*Proceedings from Act of Insolvency to Discharge.* Part  
III.—*Administration of Property.*)

(2) Save as otherwise provided by sub-section (1), an order of discharge shall release the insolvent from all debts provable in insolvency.

(3) An order of discharge shall be conclusive evidence of the insolvency and of the validity of the proceedings therein.

(4) An order of discharge shall not release any person who at the date of the presentation of the petition was a partner or co-trustee with the insolvent or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

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### PART III.

#### ADMINISTRATION OF PROPERTY.

##### *Proof of debts.*

46. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract or breach of trust shall not be provable in insolvency. Debts prov-  
able in  
insolvency.

(2) A person having notice of the presentation of any insolvency petition by or against the debtor shall not prove for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as provided by sub-sections (1) and (2), all debts and liabilities, present or future, certain or contingent, to which the debtor is subject when he is adjudged an insolvent or to which he may become subject before his discharge by reason of any obligation incurred before the date of such adjudication, shall be deemed to be debts provable in insolvency.

(4) An estimate shall be made by the official assignee of the value of any debt or liability provable as aforesaid which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value :

Provided that if in his opinion the value of the debt or liability is incapable of being fairly estimated, he shall issue a certificate to that effect, and thereupon the debt or liability shall be deemed to be a debt not provable in insolvency.

## (Part III.—Administration of Property.)

*Explanation.*—For the purposes of this section “liability” includes any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money’s worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring, before the discharge of the debtor, and generally it includes any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of, money, or money’s worth, whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any contingency or contingencies; as to mode of valuation, capable of being ascertained by fixed rules, or as matter of opinion.

Mutual deal-  
ings and  
set-off.

47. Where there have been mutual dealings between an insolvent and a creditor proving or claiming to prove a debt under this Act, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively :

Provided that a person shall not be entitled under this section to claim the benefits of any set-off against the property of an insolvent in any case where he had at the time of giving credit to the insolvent notice of the presentation of any insolvency petition by or against him.

Rules as to  
proof of  
debts.

48. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule, the rules in that schedule shall be observed.

Priority of  
debts.

49. (1) In the distribution of the property of the insolvent there shall be paid in priority to all other debts—

(a) all debts due to the Crown or to any local authority ;

(b) all salary or wages of any clerk, servant or labourer in respect of services rendered to the insolvent during four months before the date of the presentation of the petition, not exceeding three hundred rupees for each such clerk, and one hundred rupees for each such servant or labourer ; and

(c) rent due to a landlord from the insolvent : provided the amount payable under this clause shall not exceed one month’s rent.

*(Part III.—Administration of Property.)*

(2) The debts specified in sub-section (1) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the expenses of administration or otherwise, the debts specified in sub-section (1) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

(4) In the case of partners the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(5) Subject to the provisions of this Act, all debts proved in insolvency shall be paid rateably according to the amounts of such debts respectively and without any preference.

(6) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts proved in the insolvency.

50. After an order of adjudication has been made no distress for rent due before such order shall be made upon the goods or effects of the insolvent, unless the order be annulled, but the landlord or party to whom the rent may be due shall be entitled to prove in respect of such rent.

*Property available for payment of debts.*

51. The insolvency of a debtor, whether the same takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to and to commence at—

- (a) the time of the commission of the act of insolvency on which an order of adjudication is made against him, or

Rent due before adjudication.

Relation of assignee's title.

*(Part III.—Administration of Property.)*

- (b) if the insolvent is proved to have committed more acts of insolvency than one, the time of the first of the acts of insolvency proved to have been committed by the insolvent within three months next preceding the date of the presentation of the insolvency petition :

Provided that no insolvency petition or order of adjudication shall be rendered invalid by reason of any act of insolvency committed anterior to the debt of the petitioning creditor.

Description  
of insolvent's  
property  
divisible  
amongst  
creditors.

**52.** (1) The property of the insolvent divisible amongst his creditors, and in this Act referred to as the property of the insolvent, shall not comprise the following particulars, namely :—

- (a) property held by the insolvent on trust for any other person ;
- (b) the tools (if any) of his trade and the necessary wearing apparel, bedding, cooking vessels, and furniture of himself, his wife and children, to a value, inclusive of tools and apparel and other necessities as aforesaid, not exceeding three hundred rupees in the whole.

(2) Subject as aforesaid, the property of the insolvent shall comprise the following particulars, namely :—

- (a) all such property as may belong to or be vested in the insolvent at the commencement of the insolvency or may be acquired by or devolve on him before his discharge ;
- (b) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the insolvent for his own benefit at the commencement of his insolvency or before his discharge ; and
- (c) all goods being at the commencement of the insolvency in the possession, order or disposition of the insolvent, in his trade or business by the consent and permission of the true owner under such circumstances that he is the reputed owner thereof :

Provided that things in action other than debts due or growing due to the insolvent in the course of his trade or business shall not be deemed goods within the meaning of clause (c) :

Provided also that the true owner of any goods which have become divisible among the creditors of the insolvent under the provisions of clause (c) may prove for the value of such goods.

## (Part III.—Administration of Property.)

*Effect of insolvency on antecedent transactions.*

53. (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the official assignee, except in respect of assets realized in the course of the execution by sale or otherwise before the date of the order of adjudication and before he had notice of the presentation of any insolvency petition by or against the debtor.

Restriction of rights of creditor under execution.

(2) Nothing in this section shall affect the right of a secured creditor in respect of property against which a decree is executed.

(3) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the official assignee.

54. Where execution of a decree has issued against any property of a debtor which is saleable in execution, and before the sale thereof notice is given to the Court executing the decree that an order of adjudication has been made against the debtor, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the official assignee, but the costs of the execution shall be a first charge on the property so delivered, and the official assignee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

Duties of Court executing decree as to property taken in execution.

55. Any transfer of property, not being a transfer made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, shall, if the transferor is adjudged insolvent within two years after the date of the transfer, be void against the official assignee.

Avoidance of voluntary transfer.

56. (1) Every transfer of property, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, with a view of giving that creditor a preference over the other creditors, shall, if such person is adjudged insolvent on a petition presented within three months after the date thereof, be deemed fraudulent and void as against the official assignee.

Avoidance of preference in certain cases.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the insolvent.

## (Part III.—Administration of Property.)

Protection  
of *bond fide*  
transactions.

57. Subject to the foregoing provisions with respect to the effect of insolvency on an execution and with respect to the avoidance of certain transfers and preferences, nothing in this Act shall invalidate in the case of an insolvency—

- (a) any payment by the insolvent to any of his creditors;
- (b) any payment or delivery to the insolvent;
- (c) any transfer by the insolvent for valuable consideration; or
- (d) any contract or dealing by or with the insolvent for valuable consideration :

Provided that any such transaction takes place before the date of the order of adjudication and that the person with whom such transaction takes place has not at the time notice of the presentation of any insolvency petition by or against the debtor.

*Realization of property.*

Possession  
of property  
by official  
assignee

58. (1) The official assignee shall, as soon as may be, take possession of the deeds, books and documents of the insolvent and all other parts of his property capable of manual delivery.

(2) The official assignee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the insolvent, be in the same position as if he were a receiver of the property appointed under the Code of Civil Procedure, 1908, and the Court may on his application V of 1908. enforce such acquisition or retention accordingly.

(3) Where any part of the property of the insolvent consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office or person, the official assignee may exercise the right to transfer the property to the same extent as the insolvent might have exercised it, if he had not become insolvent.

(4) Where any part of the property of the insolvent consists of things in action, such things shall be deemed to have been duly transferred to the official assignee.

(5) Any treasurer or other officer, or any banker, attorney or agent of an insolvent, shall pay and deliver to the official assignee all money and securities in his possession or power as such officer, banker, attorney

## (Part III.—Administration of Property.)

or agent, which he is not by law entitled to retain as against the insolvent or the official assignee. If he fails so to do, he shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the official assignee.

59. (1) The Court may grant a warrant to any prescribed officer of the Court or any police-officer above the rank of a constable to seize any part of the property of an insolvent in the custody or possession of the insolvent or of any other person, and with a view to such seizure to break open any house, building or room of the insolvent where the insolvent is supposed to be, or any building or receptacle of the insolvent where any of his property is supposed to be. Seizure of property of insolvent.

(2) Where the Court is satisfied that there is reason to believe that property of the insolvent is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search-warrant to any such officer as aforesaid who may execute it according to its tenor.

60. (1) Where an insolvent is an officer of the Army or Navy or of His Majesty's Royal Indian Marine Service, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the official assignee shall receive for distribution amongst the creditors so much of the insolvent's pay or salary liable to attachment in execution of a decree as the Court may direct. Appropriation of portion of pay or other income to creditors.

(2) Where an insolvent is in the receipt of a salary or income other than as aforesaid, the Court may, at any time after adjudication and from time to time, make such order as it thinks just for the payment to the official assignee, for distribution among the creditors of so much of such salary or income as may be liable to attachment in execution of a decree, or of any portion thereof.

61. The property of the insolvent shall pass from official assignee to official assignee, and shall vest in the official assignee for the time being during his continuance in office, without any transfer whatever. Vesting and transfer of property.

62. (1) Where any part of the property of an insolvent consists of land of any tenure burdened with onerous covenants, of shares or stocks in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act or to the payment of any sum of money, the official assignee may, notwithstanding Disclaimer of onerous property.

*(Part III.—Administration of Property.)*

that he may have endeavoured to sell or have taken possession of the property, or exercised any act of ownership in relation thereto, but subject always to the provisions hereinafter contained in that behalf, by writing signed by him, at any time within twelve months after the insolvent has been adjudged insolvent, disclaim the property :

Provided that, where any such property has not come to the knowledge of the official assignee within one month after such adjudication as aforesaid, he may disclaim the property at any time within twelve months after he has first become aware thereof.

(2) The disclaimer shall operate to determine, as from the date thereof, the rights, interest and liabilities of the insolvent and his property in or in respect of the property disclaimed, and shall also discharge the official assignee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the insolvent and his property and the official assignee from liability, affect the rights or liabilities of any other person.

Disclaimer  
of lease-  
holds.

**63.** Subject always to such rules as may be made in this behalf, the official assignee shall not be entitled to disclaim any leasehold interest without the leave of the Court; and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy, as the Court thinks just.

Power to  
call on  
official  
assignee to  
disclaim.

**64.** The official assignee shall not be entitled to disclaim any property in pursuance of section 62 in any case where an application in writing has been made to the official assignee by any person interested in the property requiring him to decide whether he will disclaim, and the official assignee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice that he disclaims the property; and in the case of a contract, if the official assignee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

*(Part III.—Administration of Property.)*

65. The Court may, on the application of any person who is, as Power for Court to rescind contract. against the official assignee, entitled to the benefit or subject to the burden of a contract made with the insolvent, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the insolvency.

66. (1) The Court may, on the application of any person either Power for Court to make vesting order in respect of disclaimed property. claiming any interest in any disclaimed property, or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any transfer for the purpose:

Provided always, that where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the insolvent, whether as under-lessee or as mortgagee except upon the terms of making such person subject to the same liabilities and obligations as the insolvent was subject to under the lease in respect of the property at the date when the insolvency petition was filed, and any under-lessee or mortgagee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and if there is no person claiming under the insolvent who is willing to accept an order upon such terms, the Court shall have power to vest the insolvent's interest in the property in any person liable either personally or in a representative character, and either alone or jointly with the insolvent, to perform the lessee's covenants in such lease, freed and discharged from all estates, incumbrances and interests created therein by the insolvent.

(2) The Court may, if it thinks fit, modify the terms prescribed by the foregoing proviso so as to make a person in whose behalf the vesting

*(Part III.—Administration of Property.)*

order may be made subject only to the same liabilities and obligations as if the lease had been assigned to him at the date when the insolvency petition was filed and (if the case so requires) as if the lease had comprised only the property comprised in the vesting order.

Persons  
injured by  
disclaimer  
may prove.

**67.** Any person injured by the operation of a disclaimer under the foregoing provisions shall be deemed to be a creditor of the insolvent to the amount of the injury, and may accordingly prove the same as a debt under the insolvency.

Duty and  
powers of  
official  
assignee as  
to realiza-  
tion.

**68.** (1) Subject to the provisions of this Act, the official assignee shall, with all convenient speed, realize the property of the insolvent, and for that purpose may—

- (a) sell all or any part of the property of the insolvent;
- (b) give receipts for any money received by him;

and may, by leave of the Court, do all or any of the following things, namely :—

- (c) carry on the business of the insolvent so far as may be necessary for the beneficial winding up of the same;
- (d) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent;
- (e) employ a legal practitioner or other agent to take any proceedings or do any business which may be sanctioned by the Court;
- (f) accept as the consideration for the sale of any property of the insolvent a sum of money payable at a future time or fully paid shares, debentures or debenture stock in any limited company subject to such stipulations as to security and otherwise as the Court thinks fit;
- (g) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts or for the purpose of carrying on the business;
- (h) refer any dispute to arbitration, and compromise all debts, claims and liabilities, on such terms as may be agreed upon;
- (i) divide in its existing form amongst the creditors, according to its estimated value, any property which, from its peculiar nature or other special circumstances, cannot readily or advantageously be sold.

*(Part III.—Administration of Property.)*

(2) The official assignee shall account to the Court and pay over all monies and deal with all securities in such manner as is prescribed or as the Court directs.

*Distribution of property.*

69. (1) The official assignee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts. Declaration and distribution of dividends.

(2) The first dividend (if any) shall be declared and be distributed within six months after the adjudication, unless the official assignee satisfies the Court that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and be payable at intervals of not more than six months.

(4) Before declaring a dividend, the official assignee shall cause notice of his intention to do so to be published in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the insolvent's schedule who has not proved his debt.

(5) When the official assignee has declared a dividend, he shall send to each creditor who has proved a notice showing the amount of the dividend, and when and how it is payable, and, if required by any creditor, a statement in the prescribed form as to the particulars of the estate.

70. Where one partner in a firm is adjudged insolvent, a creditor to whom the insolvent is indebted jointly with the other partners in the firm or any of them shall not receive any dividend out of the separate property of the insolvent until all the separate creditors have received the full amount of their respective debts. Joint and separate properties.

71. (1) In the calculation and distribution of dividends, the official assignee shall retain in his hands sufficient assets to meet— Calculation of dividends.

- (a) debts provable in insolvency and appearing from the insolvent's statements or otherwise to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs;

## (Part III.—Administration of Property.)

- (b) debts provable in insolvency the subject of claims not yet determined;
- (c) disputed proofs or claims; and
- (d) the expenses necessary for the administration of the estate or otherwise.

(2) Subject to the provisions of sub-section (1), all money in hand shall be distributed as dividends.

Right of creditor who has not proved debt before declaration of a dividend.

**72.** Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the official assignee any dividend or dividends which he may have failed to receive, before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

**73.** (1) When the official assignee has realized all the property of the insolvent, or so much thereof as can, in his opinion, be realized without needlessly protracting the proceedings in insolvency, he shall, with the leave of the Court, declare a final dividend; but, before so doing, he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him but not proved that, if they do not prove their claims, to the satisfaction of the Court, within the time limited by the notice, he will proceed to make a final dividend without regard to their claims.

(2) After the expiration of the time so limited, or, if the Court on application by any such claimant grants him further time for establishing his claim, then on the expiration of that further time, the property of the insolvent shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

No suit for dividend.

**74.** No suit for a dividend shall lie against the official assignee, but, where the official assignee refuses to pay any dividend, the Court may, on the application of the creditor who is aggrieved by such refusal, order him to pay it, and also to pay out of his own money interest thereon at such rate as may be prescribed for the time that it is withheld, and the costs of the application.

(Part III.—Administration of Property. Part IV.—Official Assignees.)

75. (1) Subject to such conditions and limitations as may be prescribed, the official assignee may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent, for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the official assignee may direct.

Power to allow insolvent to manage property, and allowance to insolvent for maintenance or service.

(2) Subject as aforesaid, the Court may, from time to time, make such allowance as it thinks just to the insolvent out of his property, for the support of the insolvent and his family, or in consideration of his services, if he is engaged in winding up his estate, but any such allowance may at any time be varied or determined by the Court.

76. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as provided by this Act and of the expenses of the proceedings taken thereunder.

Right of insolvent to surplus.

## PART IV.

### OFFICIAL ASSIGNEES.

77. (1) The Chief Justice of each of the High Courts of Judicature at Fort William, Madras, <sup>1</sup>[Bombay and Rangoon and the <sup>2</sup>Judicial Commissioner of Sind] may from time to time appoint substantively or temporarily such person as he thinks fit to the office of official assignee of insolvents' estates for each of the said Courts respectively, and may, with the concurrence of a majority of the other Judges of the Court, remove the person for the time being holding that office for any cause appearing to the Court sufficient.

Appointment and removal of official assignees of insolvent's estate.

(2) Every official assignee shall give such security and shall be subject to such rules and shall act in such manner as may be prescribed.

<sup>1</sup> These words were substituted for the words "and Bombay, and the Chief Judge of the Chief Court of Lower Burma" by s. 7 of the Insolvency (Amendment) Act, 1926 (9 of 1926).

<sup>2</sup> The words "Chief Judge of the Chief Court of Sind" are to be substituted for the words "Judicial Commissioner of Sind" when the Sind Courts (Supplementary) Act, 1926 (34 of 1926), comes into force.

## (Part IV.—Official Assignees.)

(3) Notwithstanding anything in sub-section (1), the persons substantively or temporarily holding the office of official assignee immediately before the commencement of this Act in the Courts for the relief of Insolvent Debtors at Calcutta, Madras and Bombay respectively under the <sup>1</sup>Indian Insolvency Act, 1848, and in the Chief Court of Lower Burma <sup>11 & 12</sup> under that Act as applied by the <sup>2</sup>Lower Burma Courts Act, 1900, shall, <sup>Viet., c. 21.</sup> <sup>VI of 1900.</sup> without further appointment for that purpose, become the official assignees, substantive or temporary, as the case may be, under this Act in the High Courts at Fort William, Madras and Bombay and in the Chief Court of Lower Burma, respectively.

Power to  
administer  
oath.

78. An official assignee may, for the purpose of affidavits verifying proofs, petitions or other proceedings under this Act, administer oaths.

Duties as  
regards the  
insolvent's  
conduct.

79. (1) The duties of an official assignee shall have relation to the conduct of the insolvent as well as to the administration of his estate.

(2) In particular it shall be the duty of the official assignee—

- (a) to investigate the conduct of the insolvent and to report to the Court upon any application for discharge, stating whether there is reason to believe that the insolvent has committed any act which constitutes an offence under this Act or under sections 421 to 424 of the Indian Penal Code in connection <sup>XLV of</sup> with his insolvency or which would justify the Court in <sup>1860.</sup> refusing, suspending or qualifying an order for his discharge;
- (b) to make such other reports concerning the conduct of the insolvent as the Court may direct or as may be prescribed; and
- (c) to take such part and give such assistance in relation to the prosecution of any fraudulent insolvent as the Court may direct or as may be prescribed.

Duty  
to furnish  
list of  
creditors.

80. The official assignee shall, whenever required by any creditor so to do and on payment by the creditor of the prescribed fee, furnish and send to the creditor by post a list of the creditors showing in the list the amount of the debt due to each of the creditors.

<sup>1</sup> Coll. Stats., Vol. I.

<sup>2</sup> Burr. Code.

## (Part IV.—Official Assignees.)

81. (1) Such remuneration shall be paid to the official assignee as Remuneration. may be prescribed.

(2) No remuneration whatever beyond that referred to in sub-section (1) shall be received by an official assignee as such.

82. The Court shall call the official assignee to account for any Misfeasance. misfeasance, neglect or omission which may appear in his accounts or otherwise, and may require the official assignee to make good any loss which the estate of the insolvent may have sustained by reason of the misfeasance, neglect or omission.

83. The official assignee may sue and be sued by the name of "the Name under which to sue or be sued. official assignee of the property of \_\_\_\_\_, an insolvent," inserting the name of the insolvent, and by that name may hold property of every description, make contracts, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

84. If an order of adjudication is made against an official assignee, Office vacated by insolvency. he shall thereby vacate the office of official assignee.

85. (1) Subject to the provisions of this Act and to the directions Discretionary powers and control thereof. of the Court, the official assignee shall, in the administration of the property of the insolvent and in the distribution thereof amongst his creditors, have regard to any resolution that may be passed by the creditors at a meeting.

(2) The official assignee may, from time to time, summon meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution at any meeting, or the Court may direct, or whenever requested in writing to do so by one-fourth in value of the creditors who have proved.

(3) The official assignee may apply to the Court for directions in relation to any particular matter arising under the insolvency.

(4) Subject to the provisions of this Act, the official assignee shall use his own discretion in the management of the estate and its distribution among the creditors.

86. If the insolvent or any of the creditors or any other person is Appeal to Court. aggrieved by any act or decision of the official assignee, he may appeal

(Part IV.—Official Assignees. Part V.—Committee of Inspection. Part VI.—Procedure.)

to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just.

Control of  
Court.

87. (1) If any official assignee does not faithfully perform his duties and duly observe all the requirements imposed on him by any enactment, rules or otherwise, with respect to the performance of his duties, or if any complaint is made to the Court by any creditor in regard thereto, the Court shall enquire into the matter and take such action thereon as may be deemed expedient.

(2) The Court may at any time require any official assignee to answer any enquiry made by it in relation to any insolvency in which he is engaged, and may examine him or any other person on oath concerning the insolvency.

(3) The Court may also direct an investigation to be made of the books and vouchers of the official assignee.

## PART V.

### COMMITTEE OF INSPECTION.

Committee  
of inspection.

88. The Court may, if it so thinks fit, authorize the creditors who have proved to appoint from among the creditors or holders of general proxies or general powers-of-attorney from such creditors, a committee of inspection for the purpose of superintending the administration of the insolvent's property by the official assignee :

Provided that a creditor, who is appointed a member of a committee of inspection, shall not be qualified to act until he has proved.

Control of  
committee  
of inspection  
over  
official  
assignee.

89. The committee shall have such powers of control over the proceedings of the official assignee as may be prescribed.

## PART VI.

### PROCEDURE.

Powers of  
the Court.

90. (1) In proceedings under this Act the Court shall have the like powers and follow the like procedure as it has and follows in the exercise of its ordinary original civil jurisdiction :

Provided that nothing in this sub-section shall in any way limit the jurisdiction conferred on the Court under this Act.

## (Part VI.—Procedure.)

(2) Subject to the provisions of this Act and rules, the costs of and incidental to any proceeding in the Court shall be in the discretion of the Court.

(3) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it thinks fit to impose.

(4) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it thinks fit to impose.

(5) Where by this Act or by rules the time for doing any act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court thinks fit to impose.

(6) Subject to rules, the Court may in any matter take the whole or any part of the evidence either *vivâ voce* or by interrogatories, or upon affidavit, or by commission.

(7) For the purpose of approving a composition or scheme by joint debtors the Court may, if it thinks fit, and on the report of the official assignee that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

(8) For the purposes of this Act the <sup>1</sup>[Court of the Judicial Commissioner of Sind] shall have all the powers to punish for contempt of Court which are possessed by the High Courts of Judicature at Fort William, Madras and Bombay respectively.

91. Where two or more insolvency petitions are presented against the same debtor or against joint debtors, or where joint debtors file separate petitions, the Court may consolidate the proceedings or any of them on such terms as the Court thinks fit. Consolidation of petitions.

92. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor is indebted in the amount required by this Act in the case of a petitioning creditor. Power to change carriage of petition.

<sup>1</sup> These words were substituted for the words "Chief Court of Lower Burma" by s 8 of the Insolvency (Amendment) Act. 1926 (9 of 1926).

The words "Chief Court of Sind" are to be substituted for the words "Court of the Judicial Commissioner of Sind" when the Sind Courts (Supplementary) Act, 1926 (34 of 1926), comes into force.

## (Part VI.—Procedure.)

Continuance  
of proceed-  
ings on  
death of  
debtor.

93. If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

Power to  
stay pro-  
ceedings.

94. The Court may, at any time, for sufficient reason, make an order staying the proceedings under an insolvency petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court thinks just.

Power to  
present peti-  
tion against  
a partner.

95. Any creditor whose debt is sufficient to entitle him to present an insolvency petition against all the partners in a firm may present a petition against any one or more partners in the firm without including the others.

Power to  
dismiss peti-  
tion against  
some respon-  
dents only.

96. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them without prejudice to the effect of the petition as against the other or others of them.

Separate  
insolvency  
petitions  
against  
partners.

97. Where an order of adjudication has been made on an insolvency petition against or by one partner in a firm, any other insolvency petition against or by a partner in the same firm shall be presented in or transferred to the Court in which the first-mentioned petition is in course of prosecution; and such Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

Suits by  
official as-  
signee and  
insolvent's  
partners.

98. (1) Where a partner in a firm is adjudged insolvent, the Court may authorize the official assignee to continue or commence and carry on any suit or other proceeding in his name and that of the insolvent's partner; and any release by the partner of the debt or demand to which the proceeding relates shall be void.

(2) Where application for authority to continue or commence any suit or other proceeding has been made under sub-section (1), notice of the application shall be given to the insolvent's partner and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the proceeding, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

(Part VI.—Procedure. Part VII.—Limitation. Part VIII.—Penalties.)

99. (1) Any two or more persons, being partners, or any person <sup>Proceedings</sup> carrying on business under a partnership name, may take proceedings <sup>in partner-</sup> or <sup>ship name.</sup> be proceeded against under this Act in the name of the firm :

Provided that in that case the Court may, on application by any person interested, order the names of the persons who are partners in the firm, or the name of the person carrying on business under a partnership name, to be disclosed in such manner and verified on oath or otherwise, as the Court may direct.

(2) In the case of a firm in which one partner is an infant, an adjudication order may be made against the firm other than the infant partner.

100. (1) A warrant of arrest issued by the Court may be executed <sup>Warrants of</sup> in the same manner and subject to the same conditions as a warrant of <sup>Insolvency</sup> Courts. <sup>arrest issued under the Code of Criminal Procedure, 1898, may be</sup> executed.

(2) A warrant to seize any part of the property of an insolvent, issued by the Court under section 59, sub-section (1), shall be in the form prescribed, and sections 77 (2), 79, 82, 83, 84 and 102 of the said Code shall, so far as may be, apply to the execution of such warrant.

(3) A search-warrant issued by the Court under section 59, sub-section (2), may be executed in the same manner and subject to the same conditions as a search-warrant for property supposed to be stolen may be executed under the said Code.

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## PART VII.

### LIMITATION.

101. The period of limitation for an appeal from any act or decision <sup>Limitation</sup> of the official assignee or from an order made by an officer of the Court <sup>of appeals.</sup> empowered under section 6 shall be twenty days from the date of such act, decision or order, as the case may be.

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## PART VIII.

### PENALTIES.

102. An undischarged insolvent obtaining credit to the extent of fifty <sup>Undischarg-</sup> rupees or upwards from any person without informing such person that <sup>ed insolvent</sup> he is an undischarged insolvent shall, on conviction by a Magistrate, be <sup>obtaining</sup> credit.

## (Part VIII.—Penalties.)

punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Punishment  
of insolvent  
for certain  
offences.

103. Any person adjudged insolvent who—

- (a) fraudulently with the intent to conceal the state of his affairs or to defeat the objects of this Act,
  - (i) has destroyed or otherwise wilfully prevented or purposely withheld the production of any books, paper or writing relating to such of his affairs as are subject to investigation under this Act, or
  - (ii) has kept or caused to be kept false books, or
  - (iii) has made false entries in or withheld entries from, or wilfully altered or falsified, any book, paper or writing relating to such of his affairs as are subject to investigation under this Act, or
- (b) fraudulently with intent to diminish the sum to be divided amongst his creditors or of giving an undue preference to any of the said creditors,
  - (i) has discharged or concealed any debt due to or from him, or
  - (ii) has made away with, charged, mortgaged or concealed any part of his property of what kind soever,

shall on conviction be punishable with imprisonment for a term which may extend to two years.

Disqualifica-  
tions of  
insolvent.

1[103A. (1) Where a debtor is adjudged or readjudged insolvent under this Act, he shall, subject to the provisions of this section, be disqualified from—

- (a) being appointed or acting as a Magistrate ;
- (b) being elected to any office of any local authority where the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ; and
- (c) being elected or sitting or voting as a member of any local authority.

<sup>1</sup> Section 103A was inserted by s. 2 of the Presidency-towns Insolvency (Amendment) Act, 1920 (11 of 1920).

*(Part VIII.—Penalties. Part IX.—Small Insolvencies.)*

(2) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if—

- (a) the order of adjudication is annulled under sub-section (1) of section 21, or
- (b) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.

(3) The Court may grant or refuse such certificate as it thinks fit.]

<sup>1</sup>[104. (1) Where the Court is satisfied, after such preliminary inquiry, if any, as it thinks necessary, that there is ground for inquiring into any offence referred to in section 103 and appearing to have been committed by the insolvent, the Court may record a finding to that effect and make a complaint of the offence in writing to a Presidency Magistrate or a Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1898. Procedure on charge under section 103.

▼ of 1898.

(2) Any complaint made by the Court under sub-section (1) may be signed by such officer of the Court as the Court may appoint in this behalf.]

105. Where an insolvent has been guilty of any of the offences specified in section 102 or section 103, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved. Criminal liability after discharge or composition.

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## PART IX.

### SMALL INSOLVENCIES.

106. (1) Where the Court is satisfied by affidavit or otherwise, or the official assignee reports to the Court, that the property of an insolvent is not likely to exceed in value three thousand rupees or such other less amount as may be prescribed, the Court may make an order that the insolvent's estate be administered in a summary manner, and thereupon Summary administration in small cases.

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<sup>1</sup> Substituted by s. 9 of the Insolvency (Amendment) Act, 1926 (9 of 1926).

(Part IX.—*Small Insolvencies.* Part X.—*Special Provisions.*)

the provisions of this Act shall be subject to the following modifications, namely :—

- (a) no appeal shall lie from any order of the Court, except by leave of the Court;
- (b) no examination of the insolvent shall be held except on the application of a creditor or the official assignee;
- (c) the estate shall, where practicable, be distributed in a single dividend;
- (d) such other modifications as may be prescribed with the view of saving expense and simplifying procedure :

Provided that nothing in this section shall permit the modification of the provisions of this Act relating to the discharge of the insolvent.

(2) The Court may at any time, if it thinks fit, revoke an order for the summary administration of an insolvent's estate.

## PART X.

### SPECIAL PROVISIONS.

Exemption  
of corpora-  
tion, etc.,  
from insol-  
vency pro-  
ceedings.

107. No insolvency petition shall be presented against any corporation or against any association or company registered under any enactment for the time being in force.

Administra-  
tion in insol-  
vency of  
estate of  
person  
dying  
insolvent.

108. (1) Any creditor of a deceased debtor whose debt would have been sufficient to support an insolvency petition against the debtor, had he been alive, may present to the Court within the limits of whose ordinary original civil jurisdiction the debtor resided or carried on business for the greater part of the six months immediately prior to his decease, a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor under this Act.

(2) Upon the prescribed notice being given to the legal representative of the deceased debtor, the Court may, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in insolvency of the deceased debtor's estate, or may upon cause shown dismiss the petition with or without costs.

*(Part X.—Special Provisions.)*

(3) A petition for administration under this section shall not be presented to the Court after proceedings have been commenced in any Court of justice for the administration of the deceased debtor's estate; but that Court may in that case, on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in insolvency under this Act, and thereupon the last-mentioned Court may make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

109. (1) Upon an order being made for the administration of a deceased debtor's estate under section 108, the property of the debtor shall vest in the official assignee of the Court, and he shall forthwith proceed to realize and distribute the same in accordance with the provisions of this Act.

Vesting of  
estate and  
mode of  
administra-  
tion.

(2) With the modification hereinafter mentioned, all the provisions of Part III, relating to the administration of the property of an insolvent, shall, so far as the same are applicable, apply to the case of such administration order in like manner as to an order of adjudication under this Act.

(3) In the administration of the property of the deceased debtor under an order of administration, the official assignee shall have regard to any claims by the legal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate; and those claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

(4) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official assignee after payment in full of all the debts due from the debtor together with the costs of the administration and interest as provided by this Act in case of insolvency, such surplus shall be paid over to the legal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

110. (1) After notice of the presentation of a petition under section 108 no payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the official assignee.

Payments or  
transfer by  
legal repre-  
sentatives.

(Part X.—*Special Provisions.* Part XI.—*Rules.*)

(2) Save as aforesaid nothing in section 108 or section 109 or this section shall invalidate any payment made or act or thing done in good faith by the legal representative or by a District Judge acting under the powers conferred on him by section 64 of the Administrator General's Act, 1874, before the date of the order for administration.

II of 1874.

Saving of  
jurisdiction  
of Admini-  
strator-  
General.

111. The provisions of sections 108, 109 and 110 shall not apply to any case in which probate or letters of administration to the estate of a deceased debtor have been granted to an Administrator-General.

## PART XI.

## RULES.

Rules.

112. (1) The Courts having jurisdiction under this Act may from time to time make rules<sup>1</sup> for carrying into effect the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

- (a) the fees and percentages to be charged under this Act and the manner in which the same are to be collected and accounted for and the account to which they are to be paid;
- (b) the investment, whether separately or collectively, of unclaimed dividends, balances and other sums appertaining to the estates of insolvent debtors whether adjudicated insolvent under this or any former enactment; and the application of the proceeds of such investment;
- (c) the proceedings of the official assignee in taking possession of and realising the estates of insolvent debtors;
- (d) the remuneration of the official assignee;
- (e) the receipts, payments and accounts of the official assignee;
- (f) the audit of the accounts of the official assignee;
- (g) the payment of the remuneration of the official assignee, of the costs, charges and expenses of his establishment, and of the costs of the audit of his accounts out of the proceeds of the investments in his hands;

<sup>1</sup> For rules by the High Courts, see High Court Rules and Orders of different provinces.

*(Part XI.—Rules.)*

- (h) the payment of the costs incurred in the prosecution of fraudulent debtors and in legal proceedings taken by the official assignee under the direction of the Court out of the proceeds aforesaid;
- (i) the payment of any civil liability incurred by an official assignee acting under the order or direction of the Court;
- (j) the proceedings to be taken in connection with proposals for composition and schemes of arrangement with the creditors of insolvent debtors;
- (k) the intervention of the official assignee at the hearing of applications and matters relating to insolvent debtors and their estates;
- <sup>1</sup>[(kk) filing of lists of creditors and debtors and the affording of assistance to the Court by a petitioning debtor;]
- (l) the examination by the official assignee of the books and papers of account of undischarged insolvent debtors;
- (m) the service of notices in proceedings under this Act;
- (n) the appointment, meetings and procedure of committees of inspection;
- (o) the conduct of proceedings under this Act in the name of a firm;
- (p) the forms to be used in proceedings under this Act;
- (q) the procedure to be followed in the case of estates to be administered in a summary manner;
- (r) the procedure to be followed in the case of estates of deceased persons to be administered under this Act.

**113.** Rules made under the provisions of this Part shall be subject, in the case of the High Court of Judicature at Fort William in Bengal, to the previous sanction of the Governor General in Council, and, in the case of any other Court, of the Local Government. Sanction to rules.

**114.** Rules so made and sanctioned shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall thereupon have the same force and effect with regard to proceedings under this Act in the Court which made them as if they had been enacted in this Act. Publication of rules.

<sup>1</sup> This clause was inserted by s. 5 of the Presidency-towns Insolvency (Amendment) Act, 1927 (19 of 1927).

## (Part XII.—Supplemental.)

## PART XII.

## SUPPLEMENTAL

Exemption  
from duty  
of transfers,  
etc., under  
this Act.

**115.** (1) Every transfer, mortgage, assignment, power-of-attorney, proxy paper, certificate, affidavit, bond or other proceedings, instrument or writing whatsoever before or under any order of the Court, and any copy thereof shall be exempt from payment of any stamp or other duty whatsoever.

(2) No stamp-duty or fee shall be chargeable for any application made by the official assignee to the Court under this Act, or for the drawing and issuing of any order made by the Court on such application.

The Gazette  
to be  
evidence.

**116.** (1) A copy of the official Gazette containing any notice inserted in pursuance of this Act shall be evidence of the facts stated in the notice.

(2) A copy of the official Gazette containing any notice of an order of adjudication shall be conclusive evidence of the order having been duly made, and of its date.

Swearing of  
affidavits.

**117.** Any affidavit may be used in a Court having jurisdiction under this Act if it is sworn—

(a) in British India, before—

- (i) any Court or Magistrate, or
- (ii) any officer or other person appointed to administer oaths under the Code of Civil Procedure, 1908;

V of 1908.

(b) in England, before any person authorized to administer oaths in His Majesty's High Court of Justice, or in the Court of Chancery of the County Palatine of Lancaster, or before any Registrar of a Bankruptcy Court, or before any officer of a Bankruptcy Court authorized in writing in that behalf by the Judge of the Court or before a Justice of the Peace for the county or place where it is sworn;

(c) in Scotland or in Ireland, before a Judge Ordinary, Magistrate or Justice of the Peace; and

*(Part XII.—Supplemental.)*

(d) in any other place, before a Magistrate or Justice of the Peace or other person qualified to administer oaths in that place (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid, by a British Minister or British Consul or British Political Agent or by a notary public).

118. (1) No proceeding in insolvency shall be invalidated by any formal defect or by any irregularity unless the Court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that Court.

Formal defect not to invalidate proceedings.

(2) No defect or irregularity in the appointment of an official assignee or member of a committee of inspection shall vitiate any act done by him in good faith.

XXVII of 1866.

119. Where an insolvent is a trustee within the Indian Trustee Act, 1866, section 35 of that Act shall have effect so as to authorize the appointment of a new trustee in substitution for the insolvent (whether voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Application of Trustee Act to insolvency of trustee.

120. Save as herein provided, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge shall bind the Crown.

Certain provisions to bind the Crown.

121. Nothing in this Act, or in any transfer of jurisdiction effected thereby, shall take away or affect any right of audience that any person may have had immediately before the commencement of this Act, or shall be deemed to confer such right in insolvency matters on any person who had not a right of audience before the Courts for the Relief of Insolvent Debtors.

Saving for existing rights of audience.

122. Where the official assignee has under his control any dividend which has remained unclaimed for fifteen years from the date of declaration or such less period as may be prescribed, he shall pay the same to the account and credit of the Government of India, unless the Court otherwise directs.

Lapse and credit to Government of unclaimed dividends.

## (Part XII.—Supplemental.)

Claims to monies credited to Government under section 122.

**123.** Any person claiming to be entitled to any monies paid to the account and credit of the Government of India under section 122, may apply to the Court for an order for payment to him of the same; and the Court, if satisfied that the person claiming is entitled, shall make an order for payment to him of the sum due :

Provided that, before making an order for the payment of a sum which has been carried to the account and credit of the Government of India, the Court shall cause a notice to be served on such officer as the Governor General in Council may appoint in this behalf, calling on the officer to show cause, within one month from the date of the service of the notice, why the order should not be made.

Access to insolvent's books.

**124.** (1) No person shall, as against the official assignee, be entitled to withhold possession of the books of accounts belonging to the insolvent or to set up any lien thereon.

(2) Any creditor of the insolvent may, subject to the control of the Court, and on payment of such fee, if any, as may be prescribed, inspect at all reasonable times, personally or by agent, any such books in the possession of the official assignee.

Fees and percentages.

**125.** Such fees and percentages shall be charged for and in respect of proceedings under this Act as may be prescribed.

Courts to be auxiliary to each other.

**126.** All Courts having jurisdiction under this Act shall make such orders and do such things as may be necessary to give effect to section 118 of the <sup>1</sup>Bankruptcy Act, 1883, and to section 50 of the Provincial Insolvency Act, 1907.

46 and 47  
Vict., c. 52.  
III of 1907.

**127.** (1) 2\* \* \* \* \*

(2) 2\* \* \* \* \* The proceedings under

Saving.

an insolvency petition under the Indian Insolvency Act, 1848, pending at the commencement of this Act shall, except so far as any provisions of this Act is expressly applied to pending proceedings, continue, and all the provisions of the said Indian Insolvency Act shall, except as aforesaid, apply thereto, as if this Act had not been passed.

11 and 12  
Vict., c. 21.

<sup>1</sup> Coll. Stats., Vol. II.

<sup>2</sup> In section 127, sub-section (1) and the words "Notwithstanding the repeal effected by this Act," in sub-section (2) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

*(The First Schedule.—Meetings of Creditors.)*

## THE FIRST SCHEDULE.

*(See section 26.)*

## MEETINGS OF CREDITORS.

1. The official assignee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court or by the creditors by resolution at any meeting or whenever requested in writing by one-fourth in value of the creditors who have proved. Meetings of creditors.

2. Meetings shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or, if he has not proved, at the address given in the insolvent's schedule, or such other address as may be known to the official assignee. Summoning of meetings.

3. The notice of any meeting shall be sent off not less than seven days before the day appointed for the meeting and may be delivered personally or sent by prepaid post letter, as may be convenient. The official assignee may, if he thinks fit, also publish the time and place of any meeting in any local newspaper or in the local official Gazette. Notice of meetings.

4. It shall be the duty of the insolvent to attend any meeting which the official assignee may, by notice, require him to attend, and any adjournment thereof. Such notice shall be either delivered to him personally or sent to him at his address by post at least three days before the date fixed for the meeting. Duty of insolvent to attend if required.

5. The proceedings held and resolutions passed at any meeting shall, unless the Court otherwise orders, be valid notwithstanding that any creditor has not received the notice sent to him. Proceedings not to be avoided for non-receipt of notice.

6. A certificate of the official assignee that the notice of any meeting has been duly given shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed. Proof of issue of notice.

7. Where on the request of creditors the official assignee summons a meeting, there shall be deposited with the written request the sum of five rupees for every twenty creditors for the costs of summoning the meeting, including all disbursements: Provided that the official assignee may require such further sum to be deposited as in his opinion shall be sufficient to cover the costs and expenses of the meeting. Costs of meetings.

*(The First Schedule.—Meetings of Creditors.)*

- Chairman.** 8. The official assignee shall be the chairman of any meeting.
- Right to vote.** 9. A creditor shall not be entitled to vote at a meeting unless he has duly proved a debt provable in insolvency to be due to him from the insolvent, and the proof has been duly lodged one clear day before the time appointed for the meeting.
- No vote in respect of certain debts.** 10. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.
- Secured creditor.** 11. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.
- Proof in respect of negotiable instruments.** 12. Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the insolvent is liable, such bill of exchange, note, instrument or security must, subject to any special order of the Court made to the contrary, be produced to the official assignee before the proof can be admitted for voting.
- Power to require creditor to give up security.** 13. It shall be competent to the official assignee, within twenty-eight days after a proof estimating the value of a security has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally, on payment of the value so estimated.
- Proof by partner.** 14. If one partner in a firm is adjudged insolvent, any creditor to whom that partner is indebted jointly with the other partners in the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors and shall be entitled to vote thereat.
- Power of official assignee to admit or reject proof.** 15. The official assignee shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be

(*The First Schedule.—Meetings of Creditors. The Second Schedule.—Proof of Debts.*)

admitted or rejected, he shall mark the proof as objected to, and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

16. A creditor may vote either in person or by proxy.

Proxy.

17. Every instrument of proxy shall be in the prescribed form and shall be issued by the official assignee.

Instrument of proxy.

18. A creditor may give a general proxy to his attorney or to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

General proxy.

19. A proxy shall not be used unless it is deposited with the official assignee one clear day before the time appointed for the meeting at which it is to be used.

Proxy to be deposited one day before date of meeting.

20. A creditor may appoint the official assignee to act as his proxy.

Official assignee as proxy.

21. The official assignee may adjourn the meeting from time to time and from place to place, and no notice of the adjournment shall be necessary.

Adjournment of meeting.

22. The official assignee shall draw up a minute of the proceedings at the meeting and shall sign the same.

Minute of proceedings.

## THE SECOND SCHEDULE.

(*See section 48.*)

### PROOF OF DEBTS.

#### *Proofs in ordinary cases.*

1. Every creditor shall lodge the proof of his debt as soon as may be after the making of an order of adjudication.

Time for lodging proof.

2. A proof may be lodged by delivering or sending by post in a registered letter to the official assignee an affidavit verifying the debt.

Mode of lodging proof.

3. The affidavit may be made by the creditor himself or by some person authorized by or on behalf of the creditor. If made by a person so authorized, it shall state his authority and means of knowledge.

Authority to make affidavit.

*(The Second Schedule.—Proof of Debts.)*

Contents of affidavit.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official assignee may at any time call for the production of the vouchers.

Affidavit to state if creditor holds security.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

Cost of proving debts.

6. A creditor shall bear the cost of proving his debt unless the Court otherwise specially orders.

Right to see and examine proof.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors at all reasonable times.

Deduction to be made from proof.

8. A creditor in lodging his proofs shall deduct from his debt all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

*Proof by secured creditors.*

Proof where security realized.

9. If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realised.

Proof where security is surrendered.

10. If a secured creditor surrenders his security to the official assignee for the general benefit of the creditors, he may prove for his whole debt.

Proof in other cases.

11. If a secured creditor does not either realize or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

Valuation of security.

12. (1) Where a security is so valued the official assignee may at any time redeem it on payment to the creditor of the assessed value.

(2) If the official assignee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the official assignee, or as, in default of agreement, the Court may direct. If the

*(The Second Schedule.—Proof of Debts.)*

sale is by public auction, the creditor, or the official assignee on behalf of the estate, may bid or purchase :

Provided that the creditor may at any time, by notice in writing, require the official assignee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the official assignee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the official assignee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the official assignee, or the Court, that the valuation and proof were made *bonâ fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the Court shall order, unless the official assignee shall allow the amendment without application to the Court. Amendment  
of valuation.

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he has received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he has failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment. Refund or  
excess  
received.

15. If a creditor after having valued his security subsequently realizes it, or if it is realized under the provisions of rule 12, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor and shall be treated in all respects as an amended valuation made by the creditor. Amendment  
where secu-  
rity subse-  
quently  
realized.

*(The Second Schedule.—Proof of Debts.)*

Exclusion  
from sharing  
in dividend.

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

Limit of  
receipt.

17. Subject to the provisions of rule 12, a creditor shall in no case receive more than sixteen annas in the rupee and interest as provided by this Act.

*Taking Accounts of Property Mortgaged, and of the Sale thereof.*

Inquiry into  
mortgage,  
etc.

18. Upon application by any person claiming to be a mortgagee of any part of the insolvent's real or leasehold estate and whether such mortgage is by deed or otherwise, and whether the same is of a legal or equitable nature, or upon application by the official assignee with the consent of such person claiming to be a mortgagee as aforesaid, the Court shall proceed to inquire whether such person is such mortgagee, and for what consideration and under what circumstances; and if it is found that such person is such mortgagee, and if no sufficient objection appears to the title of such person to the sum claimed by him under such mortgage, the Court shall direct such accounts and inquiries to be taken as may be necessary for ascertaining the principal, interest and costs due upon such mortgage, and of the rents and profits, or dividends, interest or other proceeds received by such person or by any other person by his order or for his use in case he has been in possession of the property over which the mortgage extends, or any part thereof, and the Court, if satisfied that there ought to be a sale, shall direct notice to be given in such newspapers as the Court thinks fit, when and where, and by whom and in what way the said premises or property, or the interest therein so mortgaged, are to be sold, and that such sale be made accordingly, and that the official assignee (unless it is otherwise ordered) shall have the conduct of such sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

Conveyance.

19. All proper parties shall join in the conveyance to the purchaser, as the Court directs.

Proceeds of  
sale.

20. The monies to arise from such sale shall be applied, in the first place, in payment of the costs, charges and expenses of and occasioned by the application to the Court, and of such sale and the commission (if any) of the official assignee, and in the next place in payment and satisfaction, so far as the same extend, of what shall be found due to such

*(The Second Schedule.—Proof of Debts.)*

mortgagee, for principal, interest and costs, and the surplus of the sale monies (if any) shall then be paid to the official assignee. But if the monies to arise from such sale are insufficient to pay and satisfy what is so found due to such mortgagee, then he shall be entitled to prove as a creditor for such deficiency, and receive dividends thereon rateably with the other creditors, but so as not to disturb any dividend then already declared.

21. For the better taking of such inquiries and accounts, and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as the Court thinks fit, and shall produce before the Court upon oath all deeds, papers, books and writings in their respective custody or power relating to the estate or effects of the insolvent as the Court directs. Proceedings on inquiry.

*Periodical payments.*

22. When any rent or other payment falls due at stated periods, and the order of adjudication is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day. Periodical payments.

*Interest.*

23. (1) On any debt or sum certain whereon interest is not reserved or agreed for, and which is overdue when the debtor is adjudged an insolvent and which is provable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum— Interest.

(a) if the debt or sum is payable by virtue of a written instrument at a certain time, from the time when such debt or sum was payable to the date of such adjudication; or

(b) if the debt or sum is payable otherwise, from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment to the date of such adjudication.

*(The Second Schedule.—Proof of Debts.)*

(2) Where a debt which has been proved in insolvency includes interest or any pecuniary consideration in lieu of interest, the interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding six per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's estate any higher rate of interest to which he may be entitled after all the debts proved have been paid in full.

*Debt payable at a future time.*

Debt payable in future.

24. A creditor may prove for a debt not payable when the debtor is adjudged an insolvent as if it were payable presently, and may receive dividends equally with the other creditors, deducting therefrom only a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

*Admission or rejection of proofs.*

Admission or rejection of proof.

25. The official assignee shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part, or require further evidence in support of it. If he rejects a proof, he shall state in writing to the creditor the grounds of the rejection.

Court may expunge proof improperly received.

26. If the official assignee thinks that a proof has been improperly admitted, the Court may, on the application of the official assignee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

Power for Court to expunge or reduce proof.

27. The Court may also expunge or reduce a proof upon the application of a creditor if the official assignee declines to interfere in the matter, or in the case of a composition or a scheme upon the application of the insolvent.

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**THE THIRD SCHEDULE.—Enactments Repealed.** [Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).]

ACT No. IV OF 1909.<sup>1</sup>

[22nd March, 1909.]

## An Act to consolidate and amend the law relating to the punishment of whipping.

WHEREAS it is expedient to consolidate and amend the law relating to the punishment of whipping; It is hereby enacted as follows:—

1. (1) This Act may be called the Whipping Act, 1909; and

Short title  
and extent.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sauthal Parganas.

XLV of  
1860.

2. In addition to the punishments described in section 53 of the Indian Penal Code, offenders are also liable to the punishment of whipping.

Whipping  
added to  
punishments  
described in  
Act XLV,  
1860.

XLV of  
1860.

3. Whoever commits any of the following offences, namely:—

Offences  
punishable  
with whip-  
ping in lieu  
of other  
punishment

(a) theft, as defined in section 378 of the Indian Penal Code other than theft by a clerk or servant of property in possession of his master;

(b) theft in a building, tent or vessel, as defined in section 380 of the said Code;

(c) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;

(d) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(e) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section;

may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the said Code.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 222; for Report of Select Committee, see *ibid.*, 1909, Pt. V, p. 47, and for Proceedings in Council, see *ibid.*, 1908, Pt. VI, p. 19, and *ibid.*, 1909, Pt. VI, pp. 14, 18 and 31.

This Act has been declared in force in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, see B. & O. Code, Vol. I; in the Arakan Hill District by Regulation 1 of 1916, s. 2, see Burma Code, Vol. I; in the Pargana of Manpur by s. 2 of the Manpur Laws Regulation, 1926 (2 of 1926).

It has been applied (subject to the substitution of a modified section for s. 6) to members of a hill tribe in a hill tract to which Kachin Hill Tribes Regulation, 1895, applied and to Chins in the Chin Hills, see Burma Gazette, 1922, Pt. I, p. 229.

Offences punishable with whipping in lieu of or in addition to other punishment.

4. <sup>1</sup>Whoever—

- (a) abets, commits or attempts to commit, rape, as defined in section 375 of the Indian Penal Code ;
- (b) compels, or induces any person by fear of bodily injury, to submit to an unnatural offence as defined in section 377 of the said Code ;
- (c) voluntarily causes hurt in committing or attempting to commit robbery, as defined in section 390 of the said Code ;
- (d) commits dacoity as defined in section 391 of the said Code ;

XLV of 1860.

may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.

Juvenile offenders when punishable with whipping.

5. Any juvenile offender who abets, commits or attempts to commit—

- (a) any offence punishable under the Indian Penal Code, except offences specified in Chapter VI and in sections 153A and 505 of that Code and offences punishable with death, or
- (b) any offence punishable under any other law with imprisonment which the Governor General in Council may, by <sup>2</sup>notification in the Gazette of India, specify in this behalf,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable.

*Explanation.*—In this section the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

Special provision as to punishment with whipping in frontier districts;

<sup>3</sup>6. Whenever any Local Government has, by <sup>4</sup>notification in the official Gazette, declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of such Local Government, any person who in such district or tract of country after such notification as aforesaid commits any offence punishable under the Indian Penal Code with imprisonment for three years or upwards, may be punished with whipping in lieu of any other punishment to which he may be liable under the said Code.

<sup>1</sup> For other sections of the Indian Penal Code offences under which are made punishable with whipping in Burma, see Burma Act VIII of 1927.

<sup>2</sup> For notification enumerating the enactments for offences under which juvenile offenders may be punished with whipping, see Gazette of India, 1920, Pt. I, p. 1868.

<sup>3</sup> As to application of s. 6 in a modified form to members of a hill-tribe in a hill tract to which Kachin Hill Tribes Regulation, 1895, applied and to Chins in the Chin Hills, see Burma Gazette, 1922, Pt. I, p. 229.

<sup>4</sup> The notification declaring the section to be in force in the Bhamo Myitkina Bogy Minna and Upper Chintheim districts and the hill districts of Arakan, see Burma Gazette, 1909, Pt. I, p. 572.

## 1909 : Act VII.]

## Anand Marriage.

V of 1898.

7. To section 392, sub-section (2), of the Code of Criminal Procedure, 1898, the words "and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes" shall be added. Amendment of section 392, Act V 1898.

8. [Repeals.] Repealed by s. 3 and 2nd Sch. of the Second Repealing and Amending Act, 1914 (17 of 1914).

*THE SCHEDULE.—Enactments repealed.* [Repealed by s. 3 and 2nd Sch. of the Second Repealing and Amending Act, 1914 (17 of 1914).]

ACT No. VII OF 1909.<sup>1</sup>

[22nd October, 1909.]

**An Act to remove doubts as to the validity of the marriage ceremony common among the Sikhs called Anand.**

WHEREAS it is expedient to remove any doubts as to the validity of the marriage ceremony common among the Sikhs called Anand; It is hereby enacted as follows :—

1. (1) This Act may be called the Anand Marriage Act, 1909; and

Short title and extent.

(2) It extends to the whole of British India.

2. All marriages which may be or may have been duly solemnized according to the Sikh marriage ceremony called Anand shall be, and shall be deemed to have been with effect from the date of the solemnization of each respectively, good and valid in law. Validity of Anand marriages.

3. Nothing in this Act shall apply to—

Exemption of certain marriages from Act.

(a) any marriage between persons not professing the Sikh religion, or

(b) any marriage which has been judicially declared to be null and void.

4. Nothing in this Act shall affect the validity of any marriage duly solemnized according to any other marriage ceremony customary among the Sikhs. Saving of marriages solemnized according to other ceremonies.

5. Nothing in this Act shall be deemed to validate any marriage between persons who are related to each other in any degree of consanguinity or affinity which would, according to the customary law of the Sikhs, render a marriage between them illegal. Non-validation of marriages within prohibited degrees

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 357; for Report of Select Committee, see *ibid*, 1909, Pt. V, p. 1034; and for Proceedings in Council, see *ibid*, 1908, Pt. VI, p. 156, and *ibid*, 1909, Pt. VI, pp. 156, 161 and 165.



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